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May 24, 2021

VIA E-FILING

The Honorable Christopher S. Sontchi
U.S. Bankruptcy Court, District of Delaware
824 N. Market Street, 5th Floor
Wilmington, DE 19801

RE: GVS Portfolio I B, LLC; Case No. 21-10690 (CSS)

Dear Judge Sontchi:

We write on behalf of GVS Portfolio I B, LLC (“Debtor” or “GVS”) to raise with the Court efforts by RREF III Storage LLC (“RREF”) to prevent the Debtor from obtaining critical discovery relevant to the motion to dismiss portion of RREF’s pending *Motion for Entry of an Order Dismissing the Debtor’s Chapter 11 Case with Prejudice and Granting Relief from the Automatic Stay* [D.I. 8] (the “Motion to Dismiss”).

As the Debtor explained in opposing RREF’s Motion to Dismiss, it commenced this Bankruptcy Case, among other reasons, to prevent the imminent evaporation of value threatened by RREF’s UCC foreclosure sale scheduled for April 12, 2021. *See Debtor’s Preliminary Objection to Portion of RREF III Storage LLC’s Motion for Entry of an Order Dismissing the Debtor’s Chapter 11 Case with Prejudice and Granting Relief from the Automatic Stay* [D.I. 53], ¶¶ 45-47. In particular, the facts and circumstances surrounding RREF’s sudden purchase of its note immediately prior to a scheduled foreclosure sale, and the efforts taken (or not taken) by RREF and its agent, Jones Lang LaSalle (“JLL”), to promote and manage the UCC foreclosure sale since then, are central facts to the Debtor’s case in chief opposing the Motion to Dismiss.

These key facts go to rebutting arguments made by RREF and confirming the Debtor’s concern that RREF has acted not to maximize value but to seize an opportunity to acquire the 64 self-storage properties held indirectly by GVS. Notably, there was no discovery related to these matters in the New York state court action and this expedited proceeding is the first time the parties have engaged in fact discovery, albeit on a limited basis. After the Court scheduled a hearing on RREF’s Motion for May 26, 2021, Debtor reasonably pared back its requests for production of documents to include, among other things, documents and communications relating to RREF’s acquisition of the loan, the April 12, 2021 foreclosure sale, and to documents supporting the statements in the O’Toole Declaration. *See Exhibit A, Debtor’s First Set of Discovery Requests Directed to RREF III Storage LLC in Connection with its Motion for Entry*





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of an Order Dismissing the Debtor's Chapter 11 Case with Prejudice and Granting Relief from the Automatic Stay; see also Exhibit B, Email from Thad Bracegirdle to Haimavathi Marlier (May 13, 2021, 17:22 EDT).

1. Debtor reserves right to recall RREF's 30(b)(6) witness, given document production one business hour prior the deposition.

To accommodate the May 26, 2021 hearing date, the parties negotiated and agreed to a highly compressed schedule providing for production of documents on May 19, 2021, followed by depositions on May 20-21, 2021. In the course of scheduling depositions, counsel for RREF initially represented that RREF's Rule 30(b)(6) designee, Michael Winston, was available to appear on either May 20 or 21, 2021. Subsequently, however – and without explanation – Debtor's counsel was informed that Mr. Winston would be made available *only* on May 20, 2021. Understandably concerned about deposing RREF's witness the next day after documents were produced, Debtor agreed to proceed on May 20, 2021 but reserved its right to seek additional deposition time should it have insufficient time to review and utilize documents RREF had yet to produce. *See Exhibit C, Email from Thad Bracegirdle to Haimavathi Marlier (May 18, 2021, 09:29 EDT).*

Regrettably, RREF did in fact attempt to exploit the compressed discovery schedule to its benefit (and to Debtor's prejudice). A few minutes before midnight on May 19, 2021, RREF produced over 900 documents to Debtor's counsel, leaving only one business hour before Mr. Winston's deposition was scheduled to begin at 10:00 a.m. the following morning. RREF's documents were produced in a format that could not be reviewed until they were uploaded into a e-discovery platform, a process that could not be completed for several hours. While Debtor's counsel attempted in good faith to review RREF's production and identify potential exhibits for Mr. Winston's deposition, the Debtor ultimately had no option but to reserve its right to recall Mr. Winston for additional testimony pending the Debtor's review of the production. *See Exhibit D, pp. 69:11-15.* By contrast, RREF demanded that the Debtor's Rule 30(b)(6) designee appear for deposition on May 21, 2021 – the same day of the Section 341 hearing for which the same witness was required – but then agreed to take the deposition on Saturday, May 22, 2021. Therefore, RREF had two full days to review the Debtor's production and, in fact, marked many of the Debtor's documents as deposition exhibits.

2. RREF's production and the Winston deposition revealed the need for further investigation of issues relevant to the May 26 Hearing.

The day after Mr. Winston was deposed, the Debtor's counsel identified some critical deficiencies that require further investigation:

- RREF's production includes e-mails between TIAA's and RREF's counsel reflecting that TIAA, in the days immediately before RREF purchased its note, was in the process of completing updated appraisals of the collateral and made them available to RREF. These new appraisals were not produced by RREF, likely because they



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support a much higher valuation than RREF is claiming in this case, even though they were obviously responsive to Debtor's Request for Production No. 2. RREF has flatly refused to produce these documents in response to the Debtor's request. *See Exhibit E*, Email from Haimavathi Marlier to Thad Bracegirdle (May 21, 2021, 18:44 EDT); *see also RREF's Responses and Objections to Debtor's Requests for Production*, attached hereto as **Exhibit F**.

- During his deposition, Mr. Winston testified that RREF performed its own internal valuation of the storage facility properties before deciding to purchase the note. *See Exhibit D*, pp. 33:4-34:2. None of these appraisals, or communications relating to them, were included within RREF's production, even though they were plainly responsive to Debtor's Request for Production No. 2. Again, RREF has flatly refused to produce these or any other additional documents, despite the Debtor's request. *See Exhibits E and F*.
- Debtor's Request for Production No. 12 sought documents or communications concerning the UCC foreclosure sale scheduled for April 12, 2021. RREF's production included several participation statements from bidders expressing interest in earlier foreclosure sales in September 2020 and/or March 2021, but no such participation statements for the April 12, 2021 UCC foreclosure sale or other evidence related to parties who intended to participate at the sale. The substance of this evidence (or its absence) is highly probative of Debtor's concern that the foreclosure process, especially after RREF's purchase of the note, was not value maximizing. RREF has flatly refused to either produce these documents or confirm that they do not exist. *See Exhibits E and F*.

In view of these significant issues, and consistent with its repeated reservations of rights, Debtor sought a supplemental deposition of Mr. Winston to ask questions relating to documents produced by RREF. Like it did in response to Debtor's other requests, RREF refused to do so. *See Exhibit D*, pp. 69:22-70:4, and **Exhibit E**.

3. Request for Relief

As noted above, the discovery that RREF has refused to produce is perhaps the most critically important to the Debtor in presenting its case on the Motion to Dismiss and RREF has no reasonable basis upon which to withholding it. The discovery goes to the heart of the state court foreclosure process after RREF emerged on the scene and the objective value of the Debtor's assets. RREF appears to believe that it is not required to participate in discovery concerning arguments with which it does not agree or to permit an appropriate deposition following a reasonable document review period. Although the Debtor is using its best efforts with the minimal discovery period and scope that has been permitted, RREF's efforts to exploit the expedited schedule are highly prejudicial to the Debtor's ability to present its case and receive a fair hearing in two days' time.



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In light of the upcoming hearing, the Debtor urgently requests that the Court order RREF to (i) produce the categories of documents identified above (and/or confirm that no such documents exist, as appropriate), and (ii) produce Mr. Winston for a supplemental deposition, both in sufficient time to permit the Debtor to use such evidence at the May 26, 2021 hearing. Counsel for the Debtor are available should the Court wish to discuss these matters further.

Respectfully submitted,

/s/ Thad Bracegirdle

Thad Bracegirdle, Esq.
Attorney ID No. 3691

TB/ERF/GJF/ bms
Attachments

Doc #24138121

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re

GVS Portfolio I B, LLC,¹

Debtor.

Chapter 11

Case No. 21-10690 (CSS)

**DEBTOR’S FIRST SET OF DISCOVERY REQUESTS DIRECTED TO RREF III
STORAGE LLC IN CONNECTION WITH ITS MOTION FOR ENTRY OF AN ORDER
DISMISSING THE DEBTOR’S CHAPTER 11 CASE WITH PREJUDICE AND
GRANTING RELIEF FROM THE AUTOMATIC STAY**

Pursuant to Rules 26, 33, 34, and 36 of the Federal Rules of Civil Procedure, as incorporated by Rules 7026, 7033, 7034, and 7036 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and made applicable to this proceeding pursuant to Bankruptcy Rule 9014(c), GVS Portfolio I B, LLC, as debtor and debtor in possession (the “Debtor”), hereby propounds the following interrogatories (“Interrogatories”) and requests for production of documents (“Requests for Production”) (each, a “Request” and collectively, the “Discovery Requests”) upon RREF III Storage LLC (“RREF”) in connection with *RREF’s Motion for Entry of an Order Dismissing the Debtor’s Chapter 11 Case with Prejudice and Granting Relief from the Automatic Stay* [D.I. 8] (the “Motion”). The documents requested shall be produced at the offices of Bayard, P.A., Attn: Erin R. Fay, no later than 5:00 p.m. (ET) on June 1, 2021, or such other date and time as the parties may agree or as ordered by the Court.

¹ The Debtor in this chapter 11 case, together with the last four digits of the Debtor’s federal tax identification number, is as follows: GVS Portfolio I B, LLC (7171). The mailing address for the Debtor, solely for purposes of notices and communications, is: 814 Lavaca Street, Austin, TX 78701.

DEFINITIONS

1. “Communication,” whether capitalized or not, shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise), including but not limited to Documents.

2. “Concerning,” whether capitalized or not, shall mean relating to, referring to, describing, evidencing, or constituting.

3. “Debtor” shall mean, individually and collectively, debtor GVS Portfolio I B, LLC and its affiliates, parents, subsidiaries, officers, managers, agents, representatives, employees, attorneys, assigns, predecessors in interest or any other person acting or purporting to act on its behalf.

4. “Document,” whether capitalized or not, is defined to be synonymous in meaning and equal in scope to the use of this term in Federal Rule of Civil Procedure 34(a), and shall include therefore, without limitation, any recording of information in whatever form, including but not limited to memoranda, correspondence, e-mails, personal notes, spreadsheets, databases, work papers, telephone logs, text messages, calendars, plan books, diaries, journals and daily records of activity, drawings, graphs, charts, maps, photographs, video and/or audio recordings and other data compilations from which information can be obtained or translated (with or without the use of detection devices), including electronic files, records, and archives. For purpose of these Requests, a Document which is a copy of another Document is intended to be separately requested if the copy differs in any way by virtue of any changes, additions, redactions, annotations, or recipients.

5. “JLL” shall mean, individually and collectively, Jones Lang LaSalle Inc. and its affiliates, parents, subsidiaries, officers, managers, agents, representatives, employees, attorneys, assigns, predecessors in interest or any other person acting or purporting to act on its behalf.

6. “Movant” or “RREF” shall mean, individually and collectively, movant RREF III Storage LLC and its affiliates, parents, subsidiaries, officers, managers, agents, representatives, employees, attorneys, assigns, predecessors in interest or any other person acting or purporting to act on its behalf.

7. “Motion” shall mean the *RREF’s Motion for Entry of an Order Dismissing the Debtor’s Chapter 11 Case with Prejudice and Granting Relief from the Automatic Stay*, filed in the above-captioned action on April 26, 2021 (D.I. 8).

8. “O’Toole Declaration” shall mean the *Declaration of Richard L. O’Toole*, dated April 26, 2021, filed in support of the Motion (D.I. 9). Any capitalized terms not specifically defined herein shall have the meanings ascribed to them in the O’Toole Declaration.

9. “SROA” shall mean, individually and collectively, SROA Capital, LLC (d/b/a Storage Rentals of America) and its affiliates, parents, subsidiaries, officers, managers, agents, representatives, employees, attorneys, assigns, predecessors in interest or any other person acting or purporting to act on its behalf.

10. “TIAA” shall mean, individually and collectively, Teachers Annuity Association of America and its affiliates, parents, subsidiaries, officers, managers, agents, representatives, employees, attorneys, assigns, predecessors in interest or any other person acting or purporting to act on its behalf.

INSTRUCTIONS

In construing these Discovery Requests, the following instructions shall apply:

1. Each Interrogatory should be construed independently and not with reference to any other Interrogatory for the purposes of limitation. Each Interrogatory should be responded to fully and to the extent not covered by another Interrogatory.

2. When an Interrogatory asks for specific information, such as a date, and the specific information requested is not known to you, such Interrogatory shall be deemed to ask (a) to approximate the information requested as well as possible, provided that the response indicates that the information being provided is an approximation or is incomplete in certain respects, and (b) to describe all efforts made by you to obtain the information necessary to answer the interrogatory.

3. When an Interrogatory directs you to identify the basis or bases for a defense, contention, allegation or statement, the response to that Interrogatory must identify, at a minimum, the following: (a) all facts, documents, communications and/or legal theories relied upon by you in support of the defense, contention, allegation or statement; and (b) all persons having knowledge of the facts, documents, communications and/or legal theories relied upon by you in support of the defense, contention, allegation or statement.

4. You are requested to produce for inspection and copying all responsive documents and things in your possession, custody and control, including all documents and things in the possession, custody or control of any parent, subsidiary, affiliate, partner, or manager and each of their respective officers, directors, employees, agents, attorneys, accountants, financial advisors, representatives, or other persons acting, or who have acted, on your behalf.

5. You are requested to produce responsive documents and things either as they are kept in the ordinary course of business or organized and labeled to correspond with the Requests for Production. All documents that are physically attached to each other shall be produced in that form. Documents that are segregated or separated from other documents, whether by inclusion and binders, files or sub-files, or by the use of dividers, tabs or any other method, shall be produced

in that form. Documents are to be produced in their entirety without redaction, with the exception of redactions permitted by Instruction No. 9 below.

6. More than one Request may ask for the same document or communication. The presence of such duplication is not to be interpreted to narrow or limit the interpretation placed upon each individual Request. Where a document or communication is requested in more than one Request, only one copy of it shall be produced.

7. As to any Request for which no responsive documents exist, please so state by referring to the specific paragraph of the Request, and state whether any documents once existed, but have since been lost or destroyed, and the circumstances surrounding the loss or destruction of such documents.

8. If any document or any portion thereof responsive to any Request for Production has been discarded, destroyed, or redacted in whole or part, you are requested to produce the following information: (a) the date the document was discarded or destroyed; (b) the reason(s) the document was discarded or destroyed; (c) the person(s) who discarded or destroyed the documents; and (d) where the document was maintained prior to its destruction.

9. If any information requested herein is withheld under claim of privilege, or is not provided for whatever reason, you are requested at the time of responding to these Requests for Production to (a) describe in detail the claim of privilege or other reason used to withhold the information and (b) identify all information by date and subject matter, without disclosing its contents, in a manner sufficient to allow it to be described to the Court for ruling on the privilege or other reason asserted. You are further requested to provide all requested information that is not subject to a claim of privilege or other reason for nonproduction by excising or otherwise

protecting the portions for which a privilege is asserted, if such a technique does not result in disclosing the contents of the portions for which some privilege is asserted.

10. All non-electronic documents produced and all electronic documents produced via a portable data storage device shall be delivered to Bayard, P.A., 600 N. King Street, Suite 400, Wilmington, DE 19801, Attention: Erin R. Fay, Esq. To the extent documents concerning these Requests for Production are to be sent by electronic mail, please send such documents to efay@bayardlaw.com.

11. To the fullest extent permitted by the Federal Rules of Civil Procedure, these Requests are continuing in nature so as to require you to produce additional documents falling within the scope of these Requests for Production if you discover or obtain possession, custody or control of such documents after the initial production is made until the time of trial.

12. The Debtor reserves its right to serve supplemental and/or additional Requests.

13. The applicable time period for each request is December 1, 2019 to the present, unless otherwise indicated.

INTERROGATORIES

1. Identify all persons Movant intends to offer as a fact witness at any hearing on the Motion and, for each person identified, describe the subject matter of such person's expected testimony.

RESPONSE:

2. Identify all persons Movant intends to offer as an expert witness at any hearing on the Motion and, for each person identified, describe: (a) the subject matter of such person's

expected testimony; (b) the substance of the facts and opinions on which such person is expected to testify; (c) the grounds for each opinion on which such person is expected to testify; and (d) all other information required to be disclosed under Fed. R. Civ. P. 26(a)(2).

RESPONSE:

3. Identify all documents Movant intends to offer as evidence at the hearing on the Motion.

RESPONSE:

4. Identify all persons with knowledge concerning the circumstances or transaction(s) by which, as stated in Paragraph 7 of the O'Toole Declaration, "RREF purchased the Mezz 2 Loan or March 8, 2021, and TIAA assigned RREF all of the rights flowing from the Mezz 2 Loan Documents."

RESPONSE:

5. Identify all persons with knowledge concerning the negotiations or circumstances leading to the execution of the Mezzanine Assignment and Assumption Agreement between RREF and TIAA and attached as Exhibit 13 to the O'Toole Declaration.

RESPONSE:

6. Identify all persons with knowledge concerning the fair market value of the collateral pledged to secure the Mezz 2 Loan (as defined in Paragraph 6 of the O'Toole Declaration), including but not limited to knowledge concerning offers to purchase, indications of interest to purchase, valuations, or appraisals.

RESPONSE:

7. Identify all persons with knowledge concerning fair market value of Debtor's assets, including but not limited to knowledge concerning valuations or appraisals.

RESPONSE:

8. Identify all persons with knowledge concerning the fair market value of the Properties (as defined in Paragraph 11 of the O'Toole Declaration), including but not limited to knowledge concerning offers to purchase, indications of interest to purchase, valuations or appraisals.

RESPONSE:

9. Identify all persons with knowledge of proposed or actual efforts to foreclose upon, sell or otherwise transfer Debtor's assets (including but not limited to the UCC foreclosure sales referenced in the O'Toole Declaration).

RESPONSE:

10. Identify all “[c]reditors of these non-debtor subsidiary entities,” as referenced in Paragraph 40 of the O’Toole Declaration, that have “take[n] action to enforce their rights against these non-debtor entities.”

RESPONSE:

11. Identify all “claims that unsecured creditors may have against the Mortgage Borrowers or Mezz 1 Borrower,” as referenced in Paragraph 44 of the O’Toole Declaration, and the value of each claim identified.

RESPONSE:

12. Identify all “state tax liens and mechanics’ liens that encumber the portfolio,” as referenced in Paragraph 44 of the O’Toole Declaration, and the value of each lien identified.

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. To the extent not attached to the O’Toole Declaration as Exhibits 1-25, all documents referenced in the O’Toole Declaration and/or supporting any statements in the O’Toole Declaration.

2. All documents and communications concerning the circumstances or transaction(s) by which, as stated in Paragraph 7 of the O'Toole Declaration, "RREF purchased the Mezz 2 Loan or March 8, 2021, and TIAA assigned RREF all of the rights flowing from the Mezz 2 Loan Documents."

3. All documents and communications concerning the negotiations or circumstances leading to the execution of the Mezzanine Assignment and Assumption Agreement between RREF and TIAA and attached as Exhibit 13 to the O'Toole Declaration.

4. All documents or records concerning the Mezz 2 Loan transferred from TIAA to RREF in connection with and/or pursuant to RREF's purchase and assumption of the Mezz 2 Loan from TIAA, including but not limited to the "loan file."

5. All documents supporting or concerning the statement, in Paragraph 27 of the O'Toole Declaration, that "on December 6, 2019, the Debtor failed to make its monthly Debt Service payment under the Mezz 2 Loan Agreement."

6. Documents sufficient to prove the calculations of principal, accrued interest, late payment charges, protective advances, and costs and expenses related to enforcement of the Mezz 2 Loan stated in Paragraph 30 of the O'Toole Declaration.

7. All documents supporting or concerning the statement, in Paragraph 33 of the O'Toole Declaration, that "despite TIAA's repeated demands [that the Debtor appoint a "Qualified Manager" to replace the Property Manager], the Debtor failed to do so."

8. All documents supporting or concerning the statement, in Paragraph 34 of the O'Toole Declaration, that "RREF ... cannot perform the required repairs until a foreclosure occurs."

9. All documents or communications concerning the UCC foreclosure sale scheduled for September 3, 2020, as referenced in Paragraph 35 of the O'Toole Declaration, including but not limited to any registration documents concerning the UCC foreclosure sale and documents or communications identifying potential or actual bidders participating in the UCC foreclosure sale.

10. All documents or communications concerning the negotiation or circumstances leading to the execution of the Sale Stipulation, as referenced in Paragraph 36 of, and attached as Exhibit 21 to, the O'Toole Declaration.

11. All documents or communications concerning the UCC foreclosure sale rescheduled for March 10, 2021, as referenced in Paragraph 36 of the O'Toole Declaration, including but not limited to any registration documents concerning the UCC foreclosure sale and documents or communications identifying potential or actual bidders participating in the UCC foreclosure sale.

12. All documents or communications concerning the UCC foreclosure sale rescheduled for April 12, 2021, as referenced in Paragraph 38 of the O'Toole Declaration, including but not limited to any registration documents concerning the UCC foreclosure sale and documents or communications identifying potential or actual bidders participating in the UCC foreclosure sale.

13. All documents and communications concerning whether and/or when, as stated in Paragraph 40 of the O'Toole Declaration, “[c]reditors of these non-debtor subsidiary entities” have taken or intend to “take action to enforce their rights against these non-debtor entities that will harm the value of the estate to RREF’s detriment.”

14. All documents and communications, regardless of date, concerning the fair market value of the collateral pledged to secure the Mezz 2 Loan (as defined in Paragraph 6 of the O'Toole

Declaration), including but not limited to offers to purchase, indications of interest to purchase, valuations, or appraisals conducted by any person.

15. All documents and communications, regardless of date, concerning the fair market value of Debtor's assets, including but not limited to valuations or appraisals conducted by any person.

16. All documents and communications, regardless of date, concerning the fair market value of the Properties (as defined in Paragraph 11 of the O'Toole Declaration), including but not limited to offers to purchase, indications of interest to purchase, valuations or appraisals conducted by any person.

17. All documents supporting or concerning the statement, in Paragraph 44 of the O'Toole Declaration, that "the portfolio of 64 self-storage facilities is worth approximately \$325 million and likely does not account for claims that unsecured creditors may have against the Mortgage Borrowers or Mezz 1 Borrower ... of the imposition of fees, costs, default interest, and other penalties in favor of the Senior Lenders."

18. All documents concerning the "certain state tax liens and mechanics' liens that encumber the portfolio, and ... exceed \$1.5 million," as stated in Paragraph 44 of the O'Toole Declaration.

19. All communications between or among RREF, TIAA, SROA and/or JLL concerning: (a) Debtor; (b) the Properties (as defined in Paragraph 11 of the O'Toole Declaration); (c) the Mezz 2 Loan (as defined in Paragraph 6 of the O'Toole Declaration); and/or (d) any proposed or actual efforts to foreclose upon, sell or otherwise transfer Debtor's assets (including but not limited to the UCC foreclosure sales referenced in the O'Toole Declaration).

20. To the extent not responsive to other requests, all documents upon which RREF intends to rely in support of the Motion and/or which RREF intends to offer as evidence at any hearing on the Motion.

21. To the extent not responsive to other requests, all documents provided to and/or relied upon by any person Movant intends to offer as an expert witness at any hearing on the Motion.

22. To the extent not responsive to other requests, all documents identified in response to the foregoing interrogatories.

Dated: May 7, 2021
Wilmington, Delaware

BAYARD, P.A.

/s/ Erin R. Fay
Neil B. Glassman (No. 2087)
Erin R. Fay (No. 5268)
Gregory J. Flasser (No. 6154)
600 N. King Street, Suite 400
Wilmington, Delaware 19801
Phone: (302) 655-5000
Email: nglassman@bayardlaw.com
efay@bayardlaw.com
gflasser@bayardlaw.com

*Proposed Counsel for the Debtor and
Debtor in Possession*

EXHIBIT B

Greg Flasser

From: Thad Bracegirdle
Sent: Thursday, May 13, 2021 5:22 PM
To: Marlier, Haimavathi V.; Erin Fay; Neil Glassman; Daniel N. Brogan
Cc: Peck, James M.; Foudy, Theresa A.; Haims, Joel C.; Lightner, Mark Alexander; Minuti, Mark; DiSabatino, Monique Bair; Greg Flasser
Subject: RE: In re GVS Portfolio I B, LLC

Haima – Thanks for your patience. Debtor’s response to your proposed schedule is below. As you and I discussed this afternoon, the feasibility of meeting these proposed deadlines assumes that the parties agree (1) preparing and exchanging privilege logs will not be required, and (2) all interrogatories will be withdrawn for the purposes of the motion to dismiss. I understand that you and your client will have to consider and decide whether to agree to these two points. Of course, any agreements on pre-hearing discovery concerning the motion to dismiss will not bind any party with respect to future discovery and the parties will reserve all rights in that regard.

May 17: Written responses and objections to RFPs due

May 18: Written responses to requests for admission due; parties disclose witnesses for hearing

May 19: Document productions due (including any documents parties intend to use as exhibits at hearing); Debtor files response to Motion to Dismiss

May 20-21: Depositions (including witnesses to be called at hearing)

May 24: RREF files reply in support of Motion to Dismiss

May 25, by 12:00 noon: Parties exchange witness lists and exhibit list (or alternatively submit joint exhibit list)

Rather than withdraw and serve new discovery, Debtor narrows its interrogatories and document requests for purposes of the Motion to Dismiss to the following (previously served on May 7):

Interrogatories No. 1, 2, 3, 10, 11, 12 (which would be withdrawn if both sides agree)

Document Requests No. 1, 2, 9, 11, 12, 19 (limited to communications between RREF and SROA), 20, 21, 22

Again, Debtor’s proposal to narrow discovery at this stage of the proceeding is without prejudice to renewing and/or supplementing the requests in the future.

Unfortunately, Neil, Erin and I are unable to get together on a meet and confer call this evening. We propose meeting and conferring at 10:30 am tomorrow morning if that will work for your team.

Best,

Thad J. Bracegirdle
Director
BAYARD, P.A.
+1 302-429-4262
tbracegirdle@bayardlaw.com

From: Marlier, Haimavathi V. <HMarlier@mofo.com>

Sent: Thursday, May 13, 2021 4:34 PM

To: Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair

<Monique.DiSabatino@saul.com>

Subject: RE: In re GVS Portfolio I B, LLC

Erin, thank you for your email. (And Thad, thank you for your phone call of 1:30pm today. We are awaiting your email regarding that discussion, which you said you would send.)

We think it is important that we meet and confer today to resolve the schedule. What time is your team available?

Regards,

Haima

HAIMAVATHI V. MARLIER

Partner | Morrison & Foerster LLP

250 West 55th Street | New York, NY 10019-9601

Office: +1 (212) 336-4409

Mobile: +1 (347) 448-1277

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From: Erin Fay <EFay@bayardlaw.com>

Sent: Wednesday, May 12, 2021 11:06 PM

To: Marlier, Haimavathi V. <HMarlier@mofo.com>; Neil Glassman <NGlassman@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>

Subject: RE: In re GVS Portfolio I B, LLC

External Email

Haima,

We are discussing your requests sent this evening and scheduling with our client and will be back in touch on a meet and confer.

Regards,

Erin

Erin R. Fay

Director

BAYARD, P.A.

Direct: +1 302-429-4242 | Mobile +1 302-290-2521

efay@bayardlaw.com

[My Bio](#) | [V-Card](#) | [LinkedIn](#)

From: Marlier, Haimavathi V. <HMarlier@mofo.com>

Sent: Wednesday, May 12, 2021 4:42 PM

To: Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Thad Bracegirdle

<tbracegirdle@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saull.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saull.com>

Subject: In re GVS Portfolio I B, LLC

CAUTION EXTERNAL

Hi Erin,

In light of the outcome of today's hearing, we will withdraw the discovery served on GVS Portfolio I B, LLC ("Debtor") on April 30, 2021, specifically:

- RREF III Storage LLC's First Set of Discovery Requests Directed to Debtor in Connection with its Motion for Entry of an Order Dismissing the Debtor's Chapter II Case with Prejudice and Granting Relief from the Automatic Stay; and
- Notice of 30(b)(6) Deposition Directed to Debtor.

Shortly, our local counsel Saul Ewing will serve and notice RREF's revised discovery, which is narrowly targeted to information relevant to RREF's motion to dismiss alone. As whether the Debtor had a good faith basis for filing its petition is the only issue that will be determined at the May 26 hearing, it is our position that Debtor should need little to no discovery from RREF or third parties.

Working back from the May 26 hearing date, we propose the following schedule:

May 14:	Written responses and objections to RFPs due
May 17:	Debtor's Objection to the Motion to Dismiss due
May 18:	Written responses to interrogatories and requests for admission due
May 19:	Document productions due
May 20-21:	Depositions (including witnesses to be called at hearing)
May 24:	RREF Reply in Support of Motion to Dismiss due
May 24:	Parties exchange witness and exhibit lists

Are you available to meet and confer later today or tomorrow morning?

Regards,

Haima

HAIMAVATHI V. MARLIER

Partner | Morrison & Foerster LLP

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=====

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EXHIBIT C

Greg Flasser

From: Thad Bracegirdle
Sent: Tuesday, May 18, 2021 9:29 PM
To: Marlier, Haimavathi V.; Erin Fay; Greg Flasser; Daniel N. Brogan; Neil Glassman
Cc: Peck, James M.; Foudy, Theresa A.; Haims, Joel C.; Lightner, Mark Alexander; Minuti, Mark; DiSabatino, Monique Bair
Subject: RE: In re GVS Portfolio I B, LLC

Haima – Thank you for following up. We will send you details regarding the deposition logistics and document transmission by 5:00 pm tomorrow as requested. As you are aware, document productions are not being made until tomorrow and we reserve all rights regarding starting a deposition the following day. I understood from our call this morning that Mr. Winston was available both Thursday and Friday, but if he is now available only on Thursday we will plan accordingly with that reservation of rights.

We intend on Alan Tantleff being the Debtor's Rule 30(b)(6) witness and calling Mr. Tantleff at trial. As we have not seen your document production or your reply brief, we reserve all rights to call or introduce testimony from (i) any witnesses called by RREF; (ii) any witnesses necessary to authenticate documentary evidence, whether or not previously identified; (iii) any witnesses necessary to rebut assertions or arguments made in RREF's to-be-filed reply, whether or not previously identified; and (iv) any witnesses necessary for impeachment or rebuttal purposes, whether or not previously identified. Mr. Tantleff will also be testifying at the previously scheduled section 341 meeting held by the Office of the United States Trustee on May 21 (Friday). As we do not believe that depositions should be dual tracked in this matter, we propose that Mr. Tantleff be deposed on Monday.

We further reserve all rights related to SROA, its alleged nonparty status, the relevance of the information it would produce, and its unwillingness to participate in discovery.

Best,

Thad J. Bracegirdle
Director
BAYARD, P.A.
+1 302-429-4262
tbracegirdle@bayardlaw.com

From: Marlier, Haimavathi V. <HMarlier@mofo.com>
Sent: Tuesday, May 18, 2021 9:17 PM
To: Erin Fay <EFay@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Greg Flasser <GFlasser@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>
Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>
Subject: RE: In re GVS Portfolio I B, LLC

As you know, the parties agreed to take depositions on Thursday and Friday. It is now Tuesday after 9pm and we are still waiting to hear from you as to who we are deposing and when we are deposing them. We need to know who your 30(b)(6) witness is and who you will put on at the hearing so that we can take care of deposition logistics and planning.

Regards,

Haima

From: Marlier, Haimavathi V.

Sent: Tuesday, May 18, 2021 9:53 AM

To: 'Erin Fay' <EFay@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Greg Flasser <GFlasser@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>

Subject: RE: In re GVS Portfolio I B, LLC

To recap my conversations with Thad of this morning, due to scheduling conflicts, Michael Winston will be RREF's 30(b)(6) witness. Michael will be available on Thursday for his deposition. RREF will not call Richard O'Toole as a witness at the hearing. Accordingly, RREF will not be producing Richard O'Toole for deposition. Please send us virtual deposition information/logistics, including how you will provide exhibit copies for Michael to use during the deposition, by 5pm tomorrow (May 19).

I understand from Thad that Natin Paul is likely to be GVS's 30(b)(6) witness. We ask that you please confirm this, and identify any other witnesses you may call at the hearing, by 5pm today (May 18) so that we can arrange for a court reporter and mailing of exhibits.

As Thad and I discussed on Sunday and again this morning, SROA is not a party to the bankruptcy proceeding. Any information SROA has is not relevant to the narrow question to be decided at the May 26 hearing and imposes a huge burden on a third party. SROA will object to the discovery requests within the time allotted by FRCP 45. For efficiency's sake, we ask that you withdraw the discovery to SROA, reserving your right to re-serve should the bankruptcy proceeding not be dismissed.

Regards,

Haima

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From: Erin Fay <EFay@bayardlaw.com>

Sent: Monday, May 17, 2021 6:26 PM

To: DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>

Cc: Marlier, Haimavathi V. <HMarlier@mofo.com>; Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A.

<TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti,

Mark <Mark.Minuti@saul.com>; Neil Glassman <NGlassman@bayardlaw.com>; Daniel N. Brogan

<DBrogan@bayardlaw.com>; Greg Flasser <GFlasser@bayardlaw.com>

Subject: RE: In re GVS Portfolio I B, LLC

External Email

Hi Monique,

We are endeavoring to get your comments tomorrow in advance of Wednesday's productions. If the order takes longer to get entered, we can stipulate to confidentiality per the local rules.

Best,

Erin

Erin R. Fay
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Direct: +1 302-429-4242 | Mobile +1 302-290-2521
efay@bayardlaw.com
[My Bio](#) | [V-Card](#) | [LinkedIn](#)

From: DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>
Sent: Monday, May 17, 2021 2:02 PM
To: Thad Bracegirdle <tbracegirdle@bayardlaw.com>
Cc: Marlier, Haimavathi V. <HMarlier@mofo.com>; Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; Neil Glassman <NGlassman@bayardlaw.com>; Erin Fay <EFay@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>; Greg Flasser <GFlasser@bayardlaw.com>
Subject: RE: In re GVS Portfolio I B, LLC

Hi Thad,

Just wanted to touch base to see if there are any questions or comments regarding the attached.

Thank you,
Monique

MONIQUE BAIR DISABATINO | SAUL EWING ARNSTEIN & LEHR LLP | 302.421.6806

From: DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>
Sent: Friday, May 14, 2021 5:58 PM
To: Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Marlier, Haimavathi V. <HMarlier@mofo.com>; Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>
Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; Greg Flasser <GFlasser@bayardlaw.com>
Subject: RE: In re GVS Portfolio I B, LLC

Hi Thad,

Attached you will find the draft protective order. Please let us know if you have any comments.

Many thanks,
Monique

MONIQUE BAIR DISABATINO | SAUL EWING ARNSTEIN & LEHR LLP | 302.421.6806

From: Thad Bracegirdle <tbracegirdle@bayardlaw.com>

Sent: Friday, May 14, 2021 5:21 PM

To: Marlier, Haimavathi V. <HMarlier@mofo.com>; Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>; Greg Flasser <GFlasser@bayardlaw.com>

Subject: RE: In re GVS Portfolio I B, LLC

****EXTERNAL EMAIL** - This message originates from outside our Firm. Please consider carefully before responding or clicking links/attachments.**

Thanks, Haima. As for the requested information, I anticipate that Debtor will narrow the requested deposition topics identified in RREF's Rule 30(b)(6) Notice and the SROA subpoena to the following:

RREF Rule 30(b)(6): Topics 2 through 12, 16 through 18

SROA: Topics 1, 5 and 6

This remains subject to our client's input and approval, but for the sake of expediency I am providing this tentative information as requested. We'll look forward to receiving a draft protective order for our review.

Best,

Thad J. Bracegirdle
Director
BAYARD, P.A.
+1 302-429-4262
tbracegirdle@bayardlaw.com

From: Marlier, Haimavathi V. <HMarlier@mofo.com>

Sent: Friday, May 14, 2021 2:02 PM

To: Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>; Greg Flasser <GFlasser@bayardlaw.com>

Subject: RE: In re GVS Portfolio I B, LLC

Bayard team,

Thank you for the call this morning. The parties have agreed to the schedule below:

May 17:	Written responses and objections to RFPs due
May 17:	Debtor's Objection to the Motion to Dismiss due
May 18:	Written responses to interrogatories and requests for admission due; parties to identify witnesses who will be called at the hearing
May 19:	Document productions due; categorical privilege logs due
May 20-21:	Depositions (including witnesses to be called at hearing)
May 21:	RREF Reply in Support of Motion to Dismiss due

May 24 (noon): Parties exchange witness and exhibit lists

May 25 (noon): Parties exchange objections to witness and exhibit lists and identify joint exhibits

The parties agreed to exchange categorical privilege logs. I have included a May 19 date above for that.

You agreed to let us know narrowed topics for the FRCP 30(b)(6) deposition of RREF. Please send us those topics today, thank you. Please also advise us whether your narrowed discovery applies to your subpoena to SROA, leaving only requests 1 and 5.

The parties agreed to produce documents pursuant to a protective order. We will send you a draft in advance of the May 19 production date.

Regards, and thanks,

Haima

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From: Marlier, Haimavathi V.

Sent: Thursday, May 13, 2021 7:16 PM

To: 'Thad Bracegirdle' <tbracegirdle@bayardlaw.com>; Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saull.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saull.com>; Greg Flasser <GFlasser@bayardlaw.com>

Subject: RE: In re GVS Portfolio I B, LLC

Thad,

Thank you for your email. We can meet and confer tomorrow at 10:30. Would you please send an invite? As to your proposal, we believe that the parties should exchange categorical privilege logs, which will obviate the need to log individual documents while describing categories of documents withheld as privileged with sufficient description of subject matter and recipients by category to assess whether they would appear to be privileged. Further, we cannot agree to withdraw interrogatories. We have served Debtor with narrow interrogatories tailored to motion to dismiss issues.

We can discuss the schedule during the meet and confer. In addition, it would be useful to discuss tomorrow whether you plan on narrowing your FRCP 30(b)(6) deposition topics; and whether you plan on presenting direct testimony live at the hearing, or prepare written declarations to serve as direct testimony.

We look forward to a productive discussion.

Regards,

Haima

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From: Thad Bracegirdle <tbracegirdle@bayardlaw.com>

Sent: Thursday, May 13, 2021 5:22 PM

To: Marlier, Haimavathi V. <HMarlier@mofo.com>; Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saull.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saull.com>; Greg Flasser <GFlasser@bayardlaw.com>

Subject: RE: In re GVS Portfolio I B, LLC

External Email

Haima – Thanks for your patience. Debtor’s response to your proposed schedule is below. As you and I discussed this afternoon, the feasibility of meeting these proposed deadlines assumes that the parties agree (1) preparing and exchanging privilege logs will not be required, and (2) all interrogatories will be withdrawn for the purposes of the motion to dismiss. I understand that you and your client will have to consider and decide whether to agree to these two points. Of course, any agreements on pre-hearing discovery concerning the motion to dismiss will not bind any party with respect to future discovery and the parties will reserve all rights in that regard.

May 17: Written responses and objections to RFPs due

May 18: Written responses to requests for admission due; parties disclose witnesses for hearing

May 19: Document productions due (including any documents parties intend to use as exhibits at hearing); Debtor files response to Motion to Dismiss

May 20-21: Depositions (including witnesses to be called at hearing)

May 24: RREF files reply in support of Motion to Dismiss

May 25, by 12:00 noon: Parties exchange witness lists and exhibit list (or alternatively submit joint exhibit list)

Rather than withdraw and serve new discovery, Debtor narrows its interrogatories and document requests for purposes of the Motion to Dismiss to the following (previously served on May 7):

Interrogatories No. 1, 2, 3, 10, 11, 12 (which would be withdrawn if both sides agree)

Document Requests No. 1, 2, 9, 11, 12, 19 (limited to communications between RREF and SROA), 20, 21, 22

Again, Debtor’s proposal to narrow discovery at this stage of the proceeding is without prejudice to renewing and/or supplementing the requests in the future.

Unfortunately, Neil, Erin and I are unable to get together on a meet and confer call this evening. We propose meeting and conferring at 10:30 am tomorrow morning if that will work for your team.

Best,

Thad J. Bracegirdle
Director
BAYARD, P.A.
+1 302-429-4262
tbracegirdle@bayardlaw.com

From: Marlier, Haimavathi V. <HMarlier@mofo.com>

Sent: Thursday, May 13, 2021 4:34 PM

To: Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saoul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saoul.com>

Subject: RE: In re GVS Portfolio I B, LLC

Erin, thank you for your email. (And Thad, thank you for your phone call of 1:30pm today. We are awaiting your email regarding that discussion, which you said you would send.)

We think it is important that we meet and confer today to resolve the schedule. What time is your team available?

Regards,

Haima

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From: Erin Fay <EFay@bayardlaw.com>

Sent: Wednesday, May 12, 2021 11:06 PM

To: Marlier, Haimavathi V. <HMarlier@mofo.com>; Neil Glassman <NGlassman@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saoul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saoul.com>

Subject: RE: In re GVS Portfolio I B, LLC

External Email

Haima,

We are discussing your requests sent this evening and scheduling with our client and will be back in touch on a meet and confer.

Regards,

Erin

Erin R. Fay
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efay@bayardlaw.com
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From: Marlier, Haimavathi V. <HMarlier@mofo.com>

Sent: Wednesday, May 12, 2021 4:42 PM

To: Erin Fay <EFay@bayardlaw.com>; Neil Glassman <NGlassman@bayardlaw.com>; Thad Bracegirdle <tbracegirdle@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>

Cc: Peck, James M. <JPeck@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Haims, Joel C. <JHaims@mofo.com>; Lightner, Mark Alexander <MLightner@mofo.com>; Minuti, Mark <Mark.Minuti@saull.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saull.com>

Subject: In re GVS Portfolio I B, LLC

CAUTION EXTERNAL

Hi Erin,

In light of the outcome of today's hearing, we will withdraw the discovery served on GVS Portfolio I B, LLC ("Debtor") on April 30, 2021, specifically:

- RREF III Storage LLC's First Set of Discovery Requests Directed to Debtor in Connection with its Motion for Entry of an Order Dismissing the Debtor's Chapter II Case with Prejudice and Granting Relief from the Automatic Stay; and
- Notice of 30(b)(6) Deposition Directed to Debtor.

Shortly, our local counsel Saul Ewing will serve and notice RREF's revised discovery, which is narrowly targeted to information relevant to RREF's motion to dismiss alone. As whether the Debtor had a good faith basis for filing its petition is the only issue that will be determined at the May 26 hearing, it is our position that Debtor should need little to no discovery from RREF or third parties.

Working back from the May 26 hearing date, we propose the following schedule:

May 14:	Written responses and objections to RFPs due
May 17:	Debtor's Objection to the Motion to Dismiss due
May 18:	Written responses to interrogatories and requests for admission due
May 19:	Document productions due
May 20-21:	Depositions (including witnesses to be called at hearing)
May 24:	RREF Reply in Support of Motion to Dismiss due
May 24:	Parties exchange witness and exhibit lists

Are you available to meet and confer later today or tomorrow morning?

Regards,

Haima

HAIMAVATHI V. MARLIER

Partner | Morrison & Foerster LLP

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"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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EXHIBIT D

In the Matter Of:

In re GVS Portfolio I B, LLC, Debtor.

MICHAEL E. WINSTON

May 20, 2021



1 UNITED STATES BANKRUPTCY COURT

2 DISTRICT OF DELAWARE

3
4
5 In re) Chapter 11
6 GVS Portfolio I B, LLC,)
7 Debtor.) Case No.
21-10690 (CSS)

8
9
10 Deposition of RREF III Storage LLC
11 taken pursuant to Federal Rule 30(b)(6)
12 through its designee MICHAEL E. WINSTON
13 via remote videoconferencing of all
14 participants beginning at 10:05 a.m.,
15 on Thursday, May 20, 2021, before Kurt
16 A. Fetzer, Registered Diplomat
17 Reporter and Notary Public.

18
19
20
21 LEXITAS REPORTING
22 Registered Professional Reporters
1330 King Street
23 Wilmington, Delaware 19801
(302) 655-0477
24 www.lexitaslegal.com

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2

1 APPEARANCES:

2 NEIL B. GLASSMAN, ESQ.
3 THAD J. BRACEGIRDLE, ESQ.
4 BAYARD, P.A.
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7 Wilmington, Delaware 19801
8 Proposed Counsel for the Debtor
9 and Debtor-in-Possession

10 JOEL C. HAIMS, ESQ.
11 HAIMAVATHI V. MARLIER, ESQ.
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14 MORRISON & FOERSTER LLP
15 250 West 55th Street
16 New York, New York 10019
17 For RREF III Storage LLC

18 ALSO PRESENT:
19 JONATHAN BALAGIZI - MONITOR

20 - - - - -
21
22
23
24

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1 THE COURT REPORTER: Will
2 counsel stipulate to the admissibility
3 of my oath via remote video-
4 conferencing?

5 MR. BRACEGIRDLE: Yes.

6 MR. HAIMS: Yes.

7
8 - - - - -

9
10 MICHAEL E. WINSTON,
11 the deponent herein, having first
12 been duly sworn on oath, was
13 examined and testified as follows:

14 EXAMINATION

15 BY MR. BRACEGIRDLE:

16 Q. Sir, would you please state your
17 name for the record.

18 A. Michael Winston.

19 Q. Mr. Winston, by way of
20 introduction, my name is Thad
21 Bracegirdle. I'm an attorney with
22 Bayard, P.A. in Wilmington, Delaware.

23 My firm represents the
24 debtor, GVS Portfolio I B, LLC, in a

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1 bankruptcy proceeding pending in the
2 Bankruptcy Court for the District of
3 Delaware.

4 My first question, sir, is
5 have you been deposed before?

6 A. Yes.

7 Q. Okay. How many times, if you
8 recall?

9 A. Two or three times.

10 Q. When was the last time you gave
11 a deposition?

12 A. I don't recall.

13 Q. Okay. Would you say it was
14 maybe within the last five years?

15 A. I don't recall.

16 Q. Okay. All right. You don't
17 recall.

18 Just by way of ground rules,
19 I want to go over a couple of matters.
20 First, as I'm sure you know, I'm going
21 to be asking you a series of questions
22 today. You'll be answering under oath
23 to the best of your ability and
24 Mr. Fetzer, the court reporter, is

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1 going to be taking down everything that
2 we say and that your counsel says.

3 So when I ask a question,
4 I'm going to assume you understood it
5 unless you tell me otherwise.

6 Is that okay?

7 A. Yes.

8 Q. So if at any point you do not
9 understand a question, please speak up
10 and I'll try to rephrase it.

11 I also ask that you provide
12 audible responses to my questions; that
13 is, shakes and nods of the head are not
14 able to be transcribed. It's difficult
15 to transcribe mm-hmm's and things like
16 that, so I would just ask you to
17 provide full, audible responses.

18 Okay?

19 A. Yes.

20 Q. Then, finally, if at any point
21 you would like to take a break, please
22 let me know and I'll try my best to
23 take a break at an appropriate time.

24 Mr. Winston, what did you

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1 do, if anything, to prepare for today's
2 deposition?

3 A. I just looked at the affidavits,
4 the court filings.

5 Q. Okay. Mr. Winston, can I ask
6 you maybe to move closer to microphone
7 or your computer? I'm having a hard
8 time.

9 A. How about now? Is this better?

10 Q. That's better, yes.

11 A. I will speak up.

12 Q. When you say "affidavits," which
13 affidavits in particular do you recall?

14 A. The declaration of Richard
15 O'Toole and the 30(b)(6) notice of
16 deposition. Maybe I'm using the wrong
17 term.

18 Q. Okay. So you have those two
19 documents with you today?

20 A. Yes, I do.

21 Q. Other than those two documents,
22 did you review any other materials to
23 prepare for your deposition today?

24 A. I have with my counsel.

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1 Q. But in terms of written
2 materials, is there anything else that
3 you recall reviewing to prepare?

4 A. Not specifically for this
5 deposition.

6 Q. And you said you met with
7 counsel. Was that one meeting or more
8 than one meeting?

9 A. We had a few phone calls.

10 Q. Phone calls. Okay.

11 Do you recall when those
12 phone calls took place?

13 A. Over the last few days.

14 Q. And can you approximate for me
15 how many phone calls that was?

16 A. Two to three phone calls.

17 Q. And who were the attorneys that
18 participated on the phone calls with
19 you?

20 A. Joel Haims.

21 Q. Anybody else that you recall?

22 A. And Haima Marlier.

23 Q. Other than Mr. Haims and
24 Ms. Marlier, did any other people

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1 participate in the phone calls you had
2 to prepare for the deposition?

3 A. My general counsel.

4 Q. And what's your general
5 counsel's name

6 A. Richard O'Toole.

7 Q. And are you currently employed?

8 A. Yes.

9 Q. And what is the nature of your
10 employment?

11 A. I work in the real estate
12 private equity business.

13 Q. And what is that real estate
14 private equity business?

15 A. Related Fund Management.

16 Q. What is your position with
17 Related Fund Management?

18 A. I'm a managing director.

19 Q. And what is the nature of
20 Related Fund Management's business?

21 A. We make investments in various
22 types of real estate.

23 Q. Can you describe for me, please,
24 what types of real estate your business

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1 invests in?

2 A. A broad spectrum, residential,
3 office, industrial, hospitality,
4 self-storage, debt equity.

5 Q. In particular the self-storage
6 area, about how much in, about how much
7 in principal does Related Fund
8 Management have invested in the self-
9 storage area?

10 A. Can I take a moment?

11 The GVS portfolio is our
12 sole investment in this space.

13 Q. Mr. Winston, I would just ask
14 you before you go on unless you're
15 asking your counsel a question
16 concerning whether or not to assert
17 attorney-client privilege, I would ask
18 that you not mute your microphone,
19 please.

20 Okay?

21 A. That's what I was doing.

22 Q. Okay. I just wanted to be sure
23 we were clear on the ground rules.

24 A. Yes.

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1 MR. BRACEGIRDLE: I
2 apologize. Kurt, can you read back the
3 answer to the last question, please?

4 (The reporter read back as
5 requested.)

6 BY MR. BRACEGIRDLE:

7 Q. When you say the GVS Portfolio,
8 what are you referring to?

9 A. The junior mezzanine loan on the
10 Great Value Storage portfolio.

11 Q. When did Related Fund Management
12 acquire that interest in the Mezz loan?

13 A. I believe it was March 2021.

14 Q. Before that time when Related
15 acquired the interest in the GVS Mezz
16 loan, did Related have any prior
17 investments in the self-storage space?

18 A. As a firm, no. We have some
19 self-storage facilities located within
20 our various residential buildings but
21 not standalone self-storage.

22 Q. Excuse me.

23 MR. BRACEGIRDLE: Off the
24 record for a moment.

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1 (A discussion was held off
2 the record.)

3 BY MR. BRACEGIRDLE:

4 Q. Mr. Winston, what are your
5 responsibilities as managing director
6 of Related Fund Management?

7 A. I evaluate and oversee
8 investments for various funds that we
9 are the manager of.

10 Q. And the GVS portfolio, is that
11 an investment that's within a
12 particular fund that you manage?

13 A. Yes.

14 Q. And what fund would that be?

15 A. Related Real Estate Fund III,
16 L.P.

17 Q. And other than the GVS
18 Portfolio, can you estimate for me how
19 many other properties are invested
20 through the Real Estate Fund III?

21 A. At the present time?

22 Q. Yes.

23 A. I believe that there are -- when
24 you say "properties," do you mean

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1 individual investments or individual
2 underlying properties? Would you
3 consider GVS 64 properties or one
4 property?

5 Q. Fair enough. That's a fair
6 question.

7 So let's count the GVS
8 Portfolio as one investment. So using
9 that metric, how many investments are
10 currently being pursued through the
11 Related Real Estate Fund III?

12 A. Pursued is probably a poor
13 choice of words. At the present time
14 we are invested in five to six
15 investment positions and have varying
16 numbers of underlying properties.

17 We are pursuing a wide
18 number of additional properties.

19 Q. Am I correct that the loan that
20 you described earlier as the GVS
21 Portfolio, that's held through an
22 entity that's called RREF III Storage
23 LLC?

24 A. Yes. That's correct.

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1 Q. Does that entity hold any other
2 assets besides the loan interest in the
3 GVS Portfolio?

4 A. No, it does not.

5 Q. And when was that entity formed?

6 A. I don't know the answer to that.

7 Q. Was it formed in connection with
8 the acquisition of the GVS loan?

9 A. I don't know the answer to that.

10 Q. If there was somebody that you
11 wanted to ask at Related to learn the
12 answer to that question, who would you
13 go to?

14 A. One of the associate general
15 counsel who handles that or one of the
16 paralegals in that group.

17 Q. Does RREF III Storage LLC have
18 any purpose other than holding the
19 interest in the GVS loan?

20 A. No.

21 Q. I'm sorry. I didn't hear you.

22 A. No.

23 Q. When did you first became aware
24 of what we've been describing this

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1 morning as the GVS Portfolio?

2 A. At some point during -- I don't
3 know -- the last four to five months of
4 2020 when I believe when the position
5 was being marketed for the initial UCC
6 auction.

7 Q. Did you become aware of the
8 portfolio in connection with that UCC
9 auction you described?

10 A. Yes.

11 Q. And how was it that you came
12 about to become aware of that auction
13 and the portfolio?

14 A. We received an e-mail from the
15 group that was marketing it.

16 Q. You said the group that was
17 what? I didn't hear.

18 A. That was advertising it.

19 Q. Who was that group that was
20 marketing the foreclosure sale?

21 A. I believe it was Newmark.

22 Q. Do you recall was it Newmark
23 that contacted Related and make Related
24 aware of the foreclosure sale?

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1 A. We received an e-mail.

2 Q. And what do you recall about
3 that e-mail?

4 A. That it mentioned that there was
5 going to be a UCC foreclosure auction
6 on a self-storage portfolio.

7 Q. And after receiving that e-mail
8 did Related have an interest in
9 participating in the foreclosure sale?

10 A. I believe we signed an NDA to
11 get information, but I don't know
12 whether we proceeded extensively at the
13 time.

14 Q. All right. Was there a point in
15 time following that first communication
16 from Newmark that Related did pursue
17 some effort to participate in a
18 foreclosure sale?

19 A. When you say "participate in a
20 foreclosure sale," do you mean showing
21 up at an auction.

22 Q. Okay. I'll ask it this way. So
23 I think you testified that at the first
24 contact you recall Related entering

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1 into an NDA. Is that correct?

2 A. I believe that's accurate.

3 Q. And then, but if I understand
4 your testimony then at that first point
5 you don't recall it being pursued
6 beyond the NDA. Is that fair?

7 A. I think we likely reviewed
8 information but did not pursue it
9 extensively.

10 I also believe, if I recall
11 properly, that foreclosure auction was
12 canceled or postponed for a rather
13 extended period of time so in a sense
14 there was nothing to pursue
15 extensively.

16 Q. So at what point in time then
17 did Related begin pursuing the
18 opportunity extensively, to use your
19 word?

20 A. In early 2021.

21 Q. And what was it at that time
22 that caused Related to begin pursuing
23 the opportunity extensively?

24 A. We were approached by a group

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1 that had been looking to raise capital
2 for another bidder and reviewing the
3 information again and seeing if we
4 thought it was an attractive
5 opportunity.

6 Q. And when you say that Related
7 began pursuing the opportunity
8 extensively in early 2021, would that
9 be say January to your recollection?

10 A. I believe that's accurate.

11 Q. Who was the group looking to
12 raise capital at that time that
13 contacted Related?

14 A. Who was acting as the group
15 trying to raise capital, meaning who
16 was acting as the advisor?

17 Q. I'll break it down.

18 So who was the bidder on
19 whose behalf Related was contacted?

20 A. Well, we were, we were contacted
21 on the behalf of a group who I don't
22 know whether or not they intended to
23 bid, but we were contacted on behalf of
24 a group named SROA.

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1 Q. So I just want to make sure I'm
2 clear.

3 You said earlier that the
4 contact was from a group seeking to
5 raise capital for another bidder?

6 A. That's right.

7 Q. Okay. I'm trying to distinguish
8 is there a difference between the group
9 and the bidder?

10 Are those two different
11 entities?

12 A. Well, again, you're using --
13 yes, but you're using bidder to imply
14 it was only being evaluated as
15 something to bid within the context of
16 the UCC auction rather than an
17 evaluation of the acquisition of the
18 non-performing note.

19 Q. All right. So when you say a
20 group was looking to raise capital,
21 you're referring to SROA in that
22 situation. Is that right?

23 A. Yes.

24 Q. And what was your understanding

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1 of the purpose for which SROA was
2 seeking to raise capital?

3 A. They were evaluating the
4 acquisition of the junior mezzanine
5 note.

6 Q. Had Related done business with
7 SROA before they reached out to you at
8 that time?

9 A. No.

10 Q. And what was your understanding
11 at the time of what SROA's interest was
12 in acquiring the GVS note?

13 A. Could you clarify what you mean
14 by their interest in?

15 Q. Sure.

16 Well, you testified a moment
17 ago that it was your understanding that
18 SROA was seeking to raise capital for
19 the purpose of evaluating an
20 acquisition of the note.

21 So what I'm asking is do you
22 have an understanding as to what was
23 the nature of their interest in making
24 an acquisition of the note?

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1 A. I think, I presume that they
2 believed that the acquisition of the
3 note might present an attractive
4 investment opportunity.

5 Q. So were they at that time
6 looking to team up with Related to
7 pursue an investment opportunity?

8 A. You would have to ask them what
9 their intention was at the time.

10 Q. So when they contacted you did
11 SROA make a proposal to Related in any
12 way?

13 A. A proposal in what sense?

14 Q. Sure. I'm trying to understand
15 the nature of their communication.

16 So it sounds like they
17 reached out to Related. And so what
18 did they communicate to you was their
19 purpose for contacting Related?

20 A. That they believed that the
21 acquisition of the junior mezzanine
22 note might prove to be an attractive
23 investment opportunity.

24 Q. All right. And why was it that

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1 they were contacting Related that they
2 communicated to you to further that
3 objective?

4 A. Because they did not -- I
5 believe it was due to the fact that
6 they had neither adequate capital on
7 their own to pursue an acquisition of
8 that size and that they did not have
9 experience acquiring non-performing
10 notes.

11 Q. And what do you understand to be
12 the nature of SROA's business?

13 A. My understanding is that they
14 own and operate a large portfolio of
15 self-storage facilities.

16 Q. So is it correct then to say
17 that what SROA was proposing was for
18 Related to assist with providing
19 capital to acquire the portfolio for
20 the purpose of SROA then operating the
21 storage facilities?

22 MR. HAIMS: Objection.

23 You can answer.

24 A. I don't think that's correct.

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1 When we acquire non-performing loans,
2 we understand that we are only a lender
3 and we're just trying to get repaid.

4 However, we evaluate
5 contingencies, including what might
6 happen if we're not repaid.

7 Q. And in the particular context of
8 this GVS Portfolio, did you evaluate
9 what those contingencies might be in
10 case Related was not repaid?

11 A. Yes.

12 Q. And what were those
13 contingencies that you evaluated?

14 MR. HAIMS: I just want to
15 caution the witness not to disclose
16 privileged information.

17 Q. And just to be clear, I'm not
18 looking for any sort of legal advice
19 for you to disclose. But from a
20 business perspective if you could
21 identify for me what were the
22 contingencies that you considered at
23 that time?

24 A. As I would imagine most lenders

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1 would, we evaluated what might happen
2 if we needed to pursue and complete a
3 foreclosure on the non-performing loan
4 and take ownership of the collateral.

5 Q. Did you consider what options
6 would be available in the event that
7 Related had to pursue foreclosure and
8 take ownership of the collateral?

9 A. I'm not sure I follow the
10 question.

11 Q. Sure.

12 I think you said you
13 evaluated the possibility that if the
14 loan was not repaid that a foreclose
15 would take place and that there's a
16 possibility that Related could take
17 ownership of the collateral.

18 What were the options within
19 that description that were considered
20 in terms of what would you do with the
21 collateral if it was acquired?

22 MR. HAIMS: Objection.

23 Go ahead.

24 A. We believed that we needed a

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1 contingency plan in the event that we
2 were not successfully repaid, which was
3 our goal.

4 To clarify, our goal was to
5 successfully be repaid. But as a
6 contingency if that were not possible
7 and we were forced to pursue a
8 foreclosure and take ownership of the
9 collateral, we believed that as a
10 contingency we needed to have a plan in
11 place to manage and operate the
12 collateral in order to preserve value.

13 Q. And was SROA involved in that
14 contingency plan to manage and operate?

15 A. What do you mean by were they
16 involved in that contingency plan?

17 Q. All right. Let me go back to
18 the beginning.

19 So after SROA contacted
20 Related, did you move forward with any
21 discussions with them on pursuing the
22 GVS opportunity?

23 MR. HAIMS: Objection.

24 You can answer.

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1 A. We evaluated the acquisition of
2 the opportunity and as part of that
3 evaluation developed a contingency plan
4 that contemplated SROA stepping in as
5 property manager in the case that we
6 were unable to be successfully repaid
7 and need to pursue and complete
8 foreclosure of the collateral.

9 Q. Did Related come to any
10 contractual arrangement with SROA
11 concerning this GVS opportunity?

12 A. At what point in time?

13 Q. At any point in time.

14 A. Not prior to our acquisition of
15 the note.

16 Q. All right. We'll come back to
17 the acquisition of the note.

18 But in terms of SROA then,
19 am I to understand correctly that after
20 Related acquired the note it was at
21 that point that a contract was entered
22 into with SROA concerning the GVS
23 opportunity?

24 A. Yes.

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1 MR. HAIMS: Hold on. I
2 object.

3 But you can answer.

4 A. Yes.

5 Q. And what were the terms of that
6 contract, if you recall.

7 A. SROA agreed to a contingent
8 management agreement and agreed to make
9 an investment in the note alongside of
10 us.

11 Q. What was the nature of the
12 investment in the note that SROA agreed
13 to?

14 A. What do you mean by "nature"?

15 Q. Are they contributing any sort
16 of cash?

17 What sort of consideration
18 are they providing to invest in the
19 note?

20 A. Yes. They made a cash
21 investment.

22 Q. Do you know how much that cash
23 investment was?

24 A. I believe it was \$1.5 million.

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1 Q. All right. And then the
2 contingent plan you described involving
3 SROA, was the contingency the
4 acquisition of the collateral?

5 A. I'm not sure I understand the
6 question.

7 Q. Sure.

8 You described for me a
9 contingency whereby SROA would be
10 responsible for some management of the
11 underlying storage properties. And so
12 was that contingency contingent upon
13 acquisition of the collateral?

14 MR. HAIMS: Objection.

15 A. By "acquisition of the
16 collateral," do you mean taking equity
17 ownership of the collateral subsequent
18 to a foreclosure or do you mean
19 acquisition of the non-performing note?

20 Q. I'm trying to understand what
21 the terms of the contract are with
22 SROA.

23 So why don't you tell me
24 then what is the nature of the

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1 contingent role of SROA pursuant to
2 entering into a contract with them?

3 A. If we are unsuccessful in our
4 efforts to be repaid as a lender and
5 are forced to pursue and complete a
6 foreclosure and as a result take
7 ownership of the collateral and need to
8 operate and manage it in order to
9 preserve value, SROA would upon our
10 taking ownership subsequent to a
11 foreclosure be responsible for acting
12 as the property manager of what was our
13 collateral and at that point will be
14 our owned property.

15 Q. Thank you for that.

16 Does Related have any
17 ownership interest in SROA?

18 A. No.

19 Q. Is there any affiliation between
20 Related and SROA other than ownership?

21 MR. HAIMS: Objection.

22 A. Not my knowledge.

23 Q. Do Related and SROA share any
24 common management?

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1 MR. HAIMS: Objection.

2 A. Nope.

3 Q. Is there a principal at SROA
4 whom Related communicates concerning
5 the GVS opportunity?

6 A. Yes.

7 Q. And who would that be?

8 A. Benjamin McFarland.

9 Q. All right. My understanding is
10 that Related through the RREF III
11 Storage LLC entity acquired the Mezz
12 loan on March 8th of this year.

13 Does that sound correct?

14 MR. HAIMS: Objection.

15 A. I believe that's correct.

16 Q. And so can you describe for me
17 the chronology between when SROA
18 contacted Related in January of this
19 year and the point in time when Related
20 purchased the note from TIAA?

21 A. Over that period of time we
22 evaluated the opportunity, performed an
23 underwriting of the underlying
24 collateral value, engaged in

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1 discussions with TIAA about the
2 acquisition of the note and acquired
3 the note.

4 Q. What was it about the note that
5 led Related to purchase it?

6 A. We believed that it presented an
7 attractive investment opportunity.

8 Q. And why was that?

9 What factors, if any, did
10 you believe made it attractive?

11 MR. HAIMS: Objection. I
12 just want to just pause here. I've
13 been pretty or I mean very
14 accommodating over the last 40 minutes,
15 but we haven't had any questions that
16 go to the topic of this motion, which
17 is your client's good faith filing of
18 the bankruptcy.

19 What Related's evaluation of
20 this investment was has nothing to do
21 with that. So I don't know where this
22 line is going, but we're going to have
23 to shut this down soon.

24 MR. BRACEGIRDLE: Okay. And

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1 I'll tell you where I'm going, Joel, is
2 there's a 30(b)(6) topic concerning the
3 circumstances surrounding the
4 acquisition so that's where I think it
5 fits in.

6 So if that helps, that's
7 where I'm going with this.

8 MR. HAIMS: And what's the
9 relevance of that to the motion to
10 dismiss or the issue of the motion?

11 MR. BRACEGIRDLE: Relevance
12 is not a reason to shut down a
13 deposition. I'm entitled to ask
14 questions that are within the topic.
15 The topic has not been objected to.

16 I'm entitled to ask
17 questions on that topic and relevancy
18 can be determined by Judge Sontchi.

19 MR. HAIMS: We can go
20 forward for now.

21 MR. BRACEGIRDLE: Okay.

22 BY MR. BRACEGIRDLE:

23 Q. So just to repeat my question,
24 Mr. Winston, what was it about the GVS

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1 loan that made it an attractive
2 investment opportunity to Related?

3 A. We believed that given the
4 nature of the loan that we could
5 acquire and the underlying collateral
6 by which it was secured that the
7 opportunity presented attractive risk-
8 adjusted returns.

9 Q. And when you say that Related
10 performed an underwriting of the
11 underlying property, that's referring
12 to the storage facilities?

13 A. Yes. That's correct.

14 Q. Did that underwriting process
15 entail any appraisal or valuation?

16 A. By a third-party appraiser?

17 I'm sorry. Is that a yes or
18 a no?

19 Q. That's fine. So when --

20 A. No. No. I'm sorry. To
21 clarify, I'm asking you are you asking
22 me if we performed a valuation with a
23 third-party appraiser?

24 Q. I see. Okay. Whether third

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1 party or internally, I'm just asking
2 whether an appraisal or valuation was
3 performed?

4 A. There was no third-party
5 appraisal or valuation.

6 As with all investments, we
7 performed internally our own analysis
8 of value.

9 Q. Okay. And what goes into that
10 internal analysis of value?

11 A. In this particular investment?

12 Q. Sure.

13 A. A review of the physical
14 properties, the historical cash flow to
15 the extent available, a few of the
16 amount of work that may be required at
17 the properties due to deferred
18 maintenance, an evaluation of where the
19 properties are located and an
20 evaluation of what the future cash
21 flows of the properties may be in order
22 to determine whether the loan can be
23 successfully repaid and, if that's not
24 possible, to determine what the cash

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1 flows of the foreclosed collateral
2 might be.

3 Q. Okay. When Related purchased
4 the GVS loan from TIAA, what was the
5 consideration that was paid?

6 MR. HAIMS: Objection.

7 I'm directing the witness
8 not to answer that question.

9 MR. BRACEGIRDLE: On what
10 grounds?

11 MR. HAIMS: Completely
12 outside the scope of this deposition,
13 inappropriate. We're not answering
14 that question.

15 MR. BRACEGIRDLE: Again,
16 Joel, look, it's within -- you know, we
17 have identified --

18 MR. HAIMS: Let the judge
19 decide.

20 MR. BRACEGIRDLE: Let me
21 finish for a second, Joel.

22 I mean we've identified the
23 topics we were going to pursue. Up
24 until now there was no objection to any

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1 of the topics that I was aware of. I'm
2 getting to the very topics that were
3 noticed and I'm entitled to ask them.
4 That's all there is to it.

5 And unless you've got an
6 objection or an instruction not to
7 answer on the grounds of privilege or
8 because you believe there's an order
9 from the Court preventing us from
10 getting to these matters, you just
11 can't instruct not to answer.

12 MR. HAIMS: Well, we can
13 disagree on that.

14 I suggest we go off the
15 record for five minutes and let me talk
16 with my colleagues.

17 MR. BRACEGIRDLE: Okay.
18 Sure.

19 Let's go off the record.

20 (A brief recess was taken.)

21 MR. BRACEGIRDLE: Kurt, may
22 I ask you to read back the last
23 question I asked that preceded our
24 discussion?

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1 (The reporter read back the
2 pending question).

3 BY MR. BRACEGIRDLE:

4 Q. I will ask you to answer that
5 question, Mr. Winston.

6 A. \$82 million.

7 Q. Does TIAA retain any continuing
8 interest in the note?

9 A. No.

10 Q. Does TIAA have any continuing
11 interest in the outcome of this
12 bankruptcy case?

13 A. No.

14 Q. And does TIAA have any
15 continuing interest in the outcome of a
16 foreclosure sale?

17 A. No.

18 Q. And at the time that Related
19 acquired the GVS note from the TIAA,
20 were you aware that the loan was in
21 default?

22 A. Yes.

23 Q. And did that have any bearing on
24 the decision-making process as to

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1 whether or not to pursue the
2 investment?

3 A. Do you mean did we take the fact
4 that the loan was in default into
5 consideration in evaluating whether to
6 acquire it?

7 Q. Yes.

8 A. Yes, we did.

9 Q. And what impact, if any, did
10 that have?

11 MR. HAIMS: Objection.

12 You can answer.

13 A. We evaluated the fact that it
14 was in default and the underlying
15 collateral and believed that it
16 presented an attractive risk-adjusted
17 investment opportunity.

18 Q. And when you say "risk-
19 adjusted," that accommodated the
20 presence of a default?

21 A. I'm not sure what you mean by
22 that.

23 Q. Sure. I'm just trying to
24 understand within of decision-making

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1 process where did the default fit in?

2 MR. HAIMS: Objection.

3 You can answer.

4 A. We evaluated and took into
5 account the fact that we were
6 purchasing a non-performing loan.

7 Q. Okay. And what about the fact
8 that it was non-performing have on the
9 decision to go forward with the
10 investment?

11 A. I'm not sure how that question
12 is different from your prior one, but
13 we evaluated the fact that it was
14 non-performing, the cause of why it was
15 non-performing and the implications of
16 its being non-performing and factored
17 those into our analysis of the
18 investment opportunity.

19 Q. And I suppose what I'm asking is
20 more specific as to how was it that
21 those particular factors influenced the
22 decision to proceed with the
23 investment?

24 A. I'm not sure exactly what you

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1 mean by that. We saw that it was
2 non-performing and we evaluated what
3 that meant in terms of what we were
4 acquiring.

5 Q. And when you say you evaluated
6 what that meant, that's what I'm
7 asking. What did it mean?

8 A. We evaluated the fully accrued
9 value of the note that we were
10 acquiring and various provisions of the
11 loan documents detailing what happens
12 when the note becomes non-performing
13 following an event of default.

14 Q. Okay. So was the possibility of
15 acquiring the underlying properties in
16 this situation a factor in deciding
17 whether or not to purchase the note?

18 A. As I stated before, we were
19 acquiring a note and as a lender we
20 were seeking to be repaid. We
21 evaluated a contingent scenario of what
22 might happen in the event that we were
23 not successfully repaid by our
24 borrower.

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1 Q. In this instance for the GVS
2 loan, was the difference between the
3 par value of the loan and the
4 consideration you paid, was that in
5 line with other investments that
6 Related has pursued?

7 A. I'm not sure that I follow the
8 question.

9 Q. Sure.

10 Well, is it fair to say that
11 in this situation the acquisition of
12 the GVS loan was acquired at a price
13 that was close to par?

14 A. When you say "par," it was not
15 acquired at par of the fully accrued
16 loan balance at the time at which we
17 acquired it.

18 Q. Right. Okay. And my question
19 gets to say the percentage of the
20 consideration that you paid as compared
21 to the overall loan value, was that
22 consistent with other investments that
23 Related has made in acquiring non-
24 performing loans?

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1 A. Every deal is different.

2 Q. Okay. Can you recall any other
3 acquisitions of non-performing loans
4 with the same ratio of purchase price
5 to outstanding value?

6 A. I don't recall.

7 Q. Okay. When Related acquired the
8 loan from TIAA, did you acquire any
9 sort of understanding about the prior
10 efforts TIAA had made to enforce the
11 loan?

12 MR. HAIMS: Again, I caution
13 you not to disclose attorney-client
14 information.

15 A. We didn't acquire in the literal
16 context of the word acquire specific
17 knowledge. As part of our diligence,
18 we reviewed the history with counsel
19 under privilege.

20 Q. Okay. All right. I'm going to
21 mark as Exhibit 1 the declaration of
22 Mr. O'Toole, which I believe you have
23 there with you, Mr. Winston.

24 A. Yes.

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1 Q. All right.

2 MR. BRACEGIRDLE: And I'm
3 sorry. Joel, do you have a copy with
4 you?

5 MR. HAIMS: Yes. I have one
6 and Michael has one.

7 MR. BRACEGIRDLE: Okay.
8 Great. I'll just read along. I won't
9 put it up on the screen.

10 (Winston Deposition Exhibit
11 No. 1 was marked for identification)

12 BY MR. BRACEGIRDLE:

13 Q. Mr. Winston, I would like to
14 direct you to paragraph 33 of the
15 declaration.

16 MR. HAIMS: Just for the
17 record, this is the declaration dated
18 April 26, 2021, correct?

19 MR. BRACEGIRDLE: Correct.

20 MR. HAIMS: Okay. Go ahead.

21 BY MR. BRACEGIRDLE:

22 Q. Mr. Winston, in paragraph 33 it
23 describes some actions that TIAA
24 undertook to exercise its rights.

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1 And so the reason for my
2 prior question is do you understand
3 what's stated in paragraph 33 to be
4 accurate and correct?

5 A. Yes.

6 Q. All right. And so, in
7 particular, as it states here, is it
8 your understanding that TIAA made
9 demands upon the debtor to appoint a,
10 quote, qualified manager, unquote?

11 A. Yes, that is my understanding.

12 Q. And what's the basis for your
13 understanding of that?

14 A. If I recall correctly, following
15 an event of default under the loans the
16 lender had the right to require that
17 the borrower/manager cease to serve as
18 the manager and appoint a replacement
19 manager who met the criteria of a
20 qualified manager as defined under the
21 loan documents.

22 Q. Okay. So what you just
23 described is a contractual right.

24 And so what I would like to

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1 know is do you have knowledge of
2 whether or not TIAA actually exercised
3 that right?

4 A. As I understand it, they
5 delivered the notice to the borrower
6 informing the borrow that they were
7 exercising that right and the borrower
8 failed to or elected not to follow the
9 notice and did not appoint a
10 replacement qualified manager.

11 Q. And is your knowledge of those
12 circumstances based on information
13 provided by TIAA?

14 A. Yes.

15 Q. And as you sit here today, do
16 you know whether or not the debtor has
17 actually appointed a qualified manager
18 to replace the property manager?

19 A. To my knowledge --

20 Q. I'm sorry?

21 A. To my knowledge, they have not.

22 Q. Okay. If you could just move
23 down the page, Mr. Winston, to
24 paragraph 34 of Mr. O'Toole's

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1 declaration.

2 A. Okay.

3 Q. So this makes reference to what
4 I understand to be a notice of default
5 by the property --

6 MR. HAIMS: Thad?

7 MR. BRACEGIRDLE: Yes.

8 MR. HAIMS: Can you give him
9 just a minute to read it?

10 MR. BRACGIRDLE: Oh, sure.
11 I didn't mean to jump ahead. I
12 apologize.

13 A. I got it. Go ahead.

14 Q. Okay. So this makes reference
15 to a notice of event of default by the
16 property owners under a mortgage loan.

17 In that context do you
18 understand the property owners to mean
19 the entities that hold title to the
20 underlying storage facilities?

21 A. Yes, that is my understanding.

22 Q. And so the notice of default in
23 that context then falls under the
24 mortgages that are held by other

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1 lenders and that are secured by those
2 properties. Is that correct?

3 A. That is my understanding.

4 Q. All right. And then in that
5 paragraph it makes reference to -- I'll
6 read the last sentence: "RREF,
7 however, cannot perform the required
8 repairs until the foreclosure occurs
9 and the financial reporting defaults
10 are otherwise personal defaults and,
11 therefore, not susceptible to cure by
12 RREF."

13 What do you understand to be
14 the required repairs as described
15 there?

16 A. As I understand it, at the time
17 that the overall financing closed,
18 which included the first mortgage, the
19 senior mezzanine loan and the junior
20 mezzanine loan, of which we were the
21 holder of the note, at that time the
22 lender group required and put into the
23 loan documents that there were a list
24 of deferred maintenance items at

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1 various properties that the borrower
2 was required to repair within a certain
3 amount of time and, furthermore, that
4 the borrower did not complete those
5 repairs by the required date and as I
6 understand it as of today has still not
7 completed those repairs, thus causing a
8 default under the loan documents.

9 Q. And how does that affect the
10 interest held by Related, if at all,
11 under the Mezz loan that it holds?

12 A. As I understand it, defaults
13 under the Mezz loan have -- as I
14 understand it, the inter-creditor
15 provides the holder of the junior Mezz
16 note the right to cure certain defaults
17 by its borrower under either the first
18 mortgage or the senior mezzanine notes.

19 However, as a lender and not
20 the owner of the properties, it is not
21 physically possible for us to exercise
22 these cure rights.

23 Q. Okay. And what effect does that
24 have on the collateral that Related

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1 holds that secures the Mezz loan?

2 A. What physical effect does it
3 have on the underlying properties or
4 what effect does it have on the junior
5 mezzanine note that we're the holder
6 of?

7 Q. No. What effect does it have on
8 the note?

9 A. My understanding -- and I would
10 either have to look at the inter-
11 creditor or ask my counsel for further
12 detail, but my understanding is that it
13 potentially causes a default that we in
14 certain circumstances might be required
15 to cure but which we are unable to do
16 so given the nature of the default.

17 Q. All right. Before Related
18 acquired the note from TIAA on March
19 8th of this year, had Related
20 participated in any of the preceding
21 foreclosure sales on the collateral?

22 A. No.

23 But to clarify, there were
24 no foreclosure sales. There was a

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1 scheduled foreclosure sale.

2 Q. Had Related registered to make a
3 bid in any of the preceding foreclosure
4 sales before it acquired the note?

5 A. If I remember correctly, we
6 signed a confi to receive information
7 during the fall of 2020. If I remember
8 correctly, the initial UCC auction was
9 canceled before any formal registration
10 documents were sent out to prospective
11 bidders who had signed the confi.

12 As such, there was no
13 preceding auction for which we could
14 have registered.

15 Q. Okay. And as I understand it,
16 March 8th, the date on which Related
17 acquired the GVS loan from TIAA, that
18 was two days before a rescheduled
19 foreclosure sale. Is that correct?

20 A. I believe that is correct.

21 Q. And did that March 10th
22 foreclosure sale go forward?

23 A. No, it did not.

24 Q. And what's your understanding as

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1 to why that March 10th sale did not
2 proceed?

3 A. My understanding is that the
4 borrower went to the New York courts to
5 get a stay to delay that foreclosure
6 auction.

7 Q. All right. Was the foreclosure
8 sale that was scheduled to take place
9 on March 10th, was Jones Lang LaSalle
10 involved in that in any way to your
11 knowledge?

12 A. As the marketing group?

13 Q. I'm just wondering did they have
14 involvement in the foreclosure sale?

15 A. I believe that they were the
16 group running the process.

17 Q. Did you have any communications
18 with Jones Lang LaSalle before Related
19 acquired the note from TIAA on March
20 8th?

21 A. To my recollection, only in the
22 capacity of signing a confidentiality
23 agreement as a prospective bidder, and
24 I believe that we registered as a

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1 bidder for that auction which was post
2 our acquisition date or which was meant
3 to be.

4 If we can go off the record
5 for one moment?

6 Q. Sure.

7 (A discussion was held off
8 the record.)

9 THE WITNESS: Can we go back
10 on the record?

11 THE COURT REPORTER: I'm
12 back on the record now.

13 THE WITNESS: And as a point
14 of clarification, earlier I mentioned
15 Newmark being involved during the
16 initial auction in 2020. I meant to
17 say JLL.

18 MR. BRACEGIRDLE: Okay.
19 Thank you for clarifying that. I
20 appreciate it.

21 BY MR. BRACEGIRDLE:

22 Q. Okay. So if I understand your
23 testimony, Mr. Winston, so Related
24 registered as a bidder for a

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1 foreclosure sale at or after the time
2 that it acquired the note on March 8th.
3 Is that correct?

4 A. Do you mean that we registered
5 at or after or that the sale was
6 scheduled for at or after?

7 Q. You mentioned just a moment ago
8 the fact that -- I believe you
9 testified that Related registered as a
10 bidder.

11 A. You're asking when we
12 registered, correct?

13 Q. Sure. Yes.

14 A. If I remember correctly, we
15 registered prior to the acquisition.

16 Q. Okay. All right. And how long
17 before the acquisition did that happen?
18 Do you recall?

19 A. I don't recall. If I remember
20 correctly, one to two weeks but I don't
21 recall specifically.

22 Q. Okay. And after acquiring the
23 note, did Related have communications
24 with JLL concerning the foreclosure

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1 sale that was to take place on March
2 10th?

3 A. Yes. As the holder of the note,
4 JLL was now engaged by us as the lender
5 to manage a commercially reasonable UCC
6 foreclosure process on our behalf and
7 as previously agreed to by the
8 borrower.

9 Q. Okay. And also after acquiring
10 the note on March 8th, did Related have
11 any communications with other potential
12 bidders for the collateral?

13 A. Not to my knowledge apart from
14 SROA, who I don't know offhand whether
15 or not they completed the registration
16 process.

17 Q. And after acquiring the note,
18 did Related have any communications
19 with actual bidders on the collateral
20 who had registered?

21 A. I believe that the senior
22 mezzanine noteholder may have been a
23 registered bidder. We spoke to them
24 briefly after acquiring the note in our

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1 capacity as the junior noteholder.

2 Q. Who was that senior noteholder?

3 A. Extra Space Storage.

4 Q. And what was the nature of the
5 communications that Related had with
6 them?

7 A. To introduce ourselves, let them
8 know that we are now the holder of the
9 junior note which was subordinate to
10 them.

11 Q. Any discussions beyond that
12 topic?

13 A. No.

14 Q. Are you aware of Extra Space
15 Storage taking any actions to enforce
16 its rights against the entity that
17 holds its debt?

18 A. I don't recall offhand.

19 Q. And are you aware of any of the
20 secured creditors for the entity that
21 holds the underlying storage facilities
22 taking any actions to enforce their
23 debt?

24 A. I believe that they have sent

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1 default notices which we just
2 discussed.

3 Q. And other than providing those
4 notices of default, are you aware of
5 the lenders for those mortgages taking
6 any further actions to enforce?

7 A. I believe that the loan servicer
8 enacted lockbox provisions prior to our
9 acquisition as provided under the
10 various loan documents following an
11 event of default.

12 Q. Okay. What about since the time
13 that Related acquired the loan, other
14 than the notes of default we talked
15 about earlier are you aware of any
16 other creditors of the entities holding
17 the underlying storage facilities
18 taking actions to enforce their rights?

19 A. I don't recall whether there was
20 more than one default notice or whether
21 it came solely from the first mortgage
22 lender or from the senior mezzanine
23 noteholder or both, but apart from
24 default notices I don't recall any

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1 additional enforcement actions being
2 taken subsequent to our acquisition.

3 Q. All right. Can I ask you,
4 Mr. Winston, to look back at Mr.
5 O'Toole's declaration? Now I would
6 like you to take a look at paragraph
7 40, please.

8 And you'll see at --

9 MR. HAIMS: Thad, give him a
10 second. He's still reading it.

11 MR. BRACEGIRDLE: Sure. I
12 apologize.

13 A. Okay. Go ahead.

14 Q. So the last few sentences of
15 paragraph 40 state that "Creditors of
16 the non-debtor subsidiary entities,
17 however, are unaffected by the
18 restrictions of the automatic stay.
19 Such creditors are, therefore, free to
20 take action to enforce their rights
21 against these non-debtor entities that
22 will harm the value of the estate to
23 RREF's detriment."

24 With respect to that

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1 statement, is it correct to say that
2 other than the actions that you have
3 testified about this morning that
4 you're unaware of any additional
5 actions being taken by those creditors
6 of the non-debtor subsidiaries?

7 A. To my recollection and at this
8 point in time, yes.

9 Q. And are you aware of any of
10 those creditors intending to take
11 action to enforce their rights?

12 A. To my knowledge and at this
13 time, no.

14 But if there's insufficient
15 cash flow to pay debt service on their
16 positions, that may well change.

17 Q. Right. But it may not, right?
18 At this point we're just speculating.
19 Is that fair?

20 A. As I said, to my knowledge at
21 this point, no, but that may change.

22 Q. Okay. And if creditors were
23 hypothetically to take those actions,
24 how, if at all, would that affect the

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1 value of the estate to RREF's
2 detriment?

3 A. We as the junior mezzanine
4 noteholder have the right under the
5 inter-creditor agreement to make
6 protective advances to the extent that
7 there is not sufficient cash flow to
8 pay current debt service on both the
9 first mortgage and the senior mezzanine
10 note.

11 To the extent that were to
12 happen, as I understand the provisions
13 of the automatic stay we are unable to
14 avail ourselves of those cure rights in
15 the ordinary course of business. And I
16 trust you're aware that this has been a
17 topic addressed with the Court under
18 the bankruptcy proceeding.

19 Q. Okay. Other than what you just
20 described, are you aware of any other
21 ways in which the ongoing Chapter 11
22 proceeding could be harming RREF's
23 interest in the collateral?

24 MR. HAIMS: Without

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1 disclosing attorney-client privilege.

2 Q. I'm not suggesting -- I'm just
3 saying from a business perspective
4 what's Related's position on that? I
5 don't want you to disclose anything
6 that counsel has disclosed or has
7 communicated to you.

8 A. Without knowing every provision
9 of the inter-creditor agreement off the
10 top of my head, as it's a rather
11 lengthy agreement, there are various
12 cure rights provided to the junior
13 mezzanine noteholder under the
14 inter-creditor agreement, all of which
15 in the ordinary course of business and
16 outside of the bankruptcy proceeding we
17 would be able to avail ourselves in the
18 normal course of business.

19 Without knowing each of them
20 offhand, I can't point to specific ones
21 that we would not be able to avail
22 ourselves given the bankruptcy
23 proceedings.

24 However, just as we may be

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1 constrained from exercising our right
2 to make protective advances to pay
3 interest shortfalls, I presume that we
4 would need to review the exercise of
5 any cure rights that we have, monetary
6 or non-monetary, to understand whether
7 or not we are able to exercise those
8 within the context of a bankruptcy
9 proceeding.

10 Q. Okay. And if we look back at
11 paragraph 40 of Mr. O'Toole's
12 declaration, the first sentence of that
13 states "The debtor's initiation of
14 Chapter 11 proceedings and invocation
15 of the automatic stay is causing
16 irreparable harm to RREF, the debtor's
17 only secured creditor."

18 So is it correct to say that
19 that threat of irreparable harm refers
20 to the ability to preserve the cure
21 right that you just described?

22 A. That is my understanding.

23 Q. If I can ask you, Mr. Winston,
24 to turn to paragraph 44 of the

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1 declaration. We're hopefully on the
2 same page but just let me know when you
3 have finished reading it.

4 A. Okay.

5 Q. In paragraph 44 Mr. O'Toole
6 states that "Upon information and
7 belief, the portfolio of 64
8 self-storage facilities is worth
9 approximately \$325 million."

10 Do you have any
11 understanding of what the basis is for
12 that statement that the portfolio of
13 the 64 self-storage facilities is worth
14 approximately \$325 million?

15 A. At the time of acquisition we
16 estimated in place net operating income
17 on a trailing basis to be approximately
18 \$17.5 million, which at a 5.5 percent
19 cap rate equates to roughly 318 million
20 and change dollars, and I presume that
21 we rounded that to 325.

22 Q. And so when the next sentence
23 goes on to say "The value likely does
24 not account for claims that unsecured

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1 creditors may have against the mortgage
2 borrowers or Mezz 1 borrower," does
3 that mean that in the valuation you
4 just described those claims were not
5 accounted for?

6 A. Correct. That is a rough
7 valuation, not taking into account
8 claims that may exist.

9 MR. HAIMS: Thad, let us
10 know when is another good time for a
11 break.

12 MR. BRACEGIRDLE: Actually,
13 this is a good time. We can go off the
14 record.

15 THE COURT REPORTER: I'm off
16 the record.

17 (A brief recess was taken.)

18 BY MR. BRACEGIRDLE:

19 Q. Mr. Winston, since the time when
20 SROA first contacted Related in January
21 of this year, have you acquired any
22 knowledge or understanding of property
23 values of storage facilities in the
24 United States generally?

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1 MR. HAIMS: Objection.

2 A. You say property values of
3 storage facilities?

4 Q. Yes.

5 A. We reviewed various market
6 research on storage facilities in the
7 United States.

8 Q. Okay. And have you continued to
9 perform that research up to the present
10 time?

11 MR. HAIMS: Objection.

12 A. I review research that may come
13 across my desk from time to time.

14 Q. Do you have any understanding as
15 to whether the property values of
16 storage facilities generally have been
17 increasing or decreasing over the last,
18 say, three months?

19 A. I don't know what's happened
20 over the last three months. But as
21 with all things in real estate, I think
22 that it's very specific to the
23 particular properties, their location,
24 their age, their quality and the way in

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1 which they're being operated and
2 maintained.

3 Q. Is there anything about the 64
4 storage facilities that are the
5 underlying properties here that suggest
6 to you that any of those factors would
7 have a negative effect on value?

8 A. Yes. We're aware of, as we just
9 discussed, deferred maintenance that
10 has not been performed. We've seen
11 news articles about facilities within
12 the portfolio where units have been
13 broken into because there are no
14 managers.

15 These are older facilities
16 with I believe an average age or year
17 of being built of 1982 and for the most
18 part these are non-climate-controlled
19 facilities.

20 So I would say that these
21 relative to other storage portfolios
22 that may be out there and transactions
23 that have taken place, these have a
24 variety of things going against them

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1 were one to be evaluating the value.

2 Q. And other than the GVS loan, is
3 Related currently pursuing any other
4 investments in the public storage
5 space?

6 A. We evaluate investments as they
7 come across our desk. I believe we saw
8 a flyer for another portfolio being
9 marketed within the last week or so and
10 I can't speak for the entire universe
11 of individuals at this company.

12 Q. Okay. But within the funds that
13 you manage, are you aware of any other
14 storage facility opportunities being
15 pursued other than the GVS Portfolio?

16 A. As I stated, I believe that we
17 saw a flyer for a portfolio of storage
18 facilities recently which I believe
19 we're in the process of obtaining
20 information on.

21 Q. Okay. Do you know where the
22 facilities that are the subject of that
23 flyer are located?

24 A. I believe that it is

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1 predominantly in the midwest, but I
2 don't recall specifically.

3 Q. Do you know who the owner or
4 owners of those facilities are?

5 A. I do not.

6 Q. Has Related had any discussions
7 with Extra Space Storage concerning the
8 potential acquisition of Extra Space
9 Storage's debt position?

10 A. No.

11 Q. Has Related communicated with
12 any other creditors within the GVS
13 chain of entities concerning the
14 acquisition of any debt?

15 A. We have communicated with
16 Midland in their capacity as loan
17 servicer.

18 Q. And what has been the nature of
19 those communications?

20 A. To introduce ourselves as the
21 new holder of the junior mezzanine note
22 at the time that we acquired it and
23 then various routine communications
24 having to do with the monthly payment

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1 of interest.

2 Q. Okay. Has Related -- I'm sorry.
3 I didn't mean to cut you off.

4 A. No. That was somebody else, not
5 me.

6 Q. Oh, okay.

7 Has Related had any
8 discussions with any of those mortgage
9 lenders about potentially acquiring
10 their debt?

11 A. No.

12 Q. And is Related at the present
13 time attempting to acquire securities
14 of any other affiliates of Great Value
15 Storage or Worldwide -- I'm sorry --
16 World Class?

17 A. I do not know.

18 Q. What about the --

19 MR. HAIMS: Thad, if I
20 could, what topic are these questions
21 related to?

22 MR. BRACEGIRDLE: Fair
23 enough. Fair enough. I'll withdraw
24 the question.

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1 BY MR. BRACEGIRDLE:

2 Q. Let me back up.

3 So I understand that RREF
4 has initiated litigation against
5 Mr. Paul for a personal guaranty in New
6 York State Court. Is that correct?

7 A. Yes. That is my understanding.

8 Q. And other than that suit and
9 RREF's actions in connection with the
10 bankruptcy proceeding, is RREF taking
11 any other actions to collect on the
12 note?

13 A. I believe we were pursuing the
14 UCC foreclosure as a result of the
15 bankruptcy filing. So there's the UCC
16 foreclosure, there's the bankruptcy and
17 then there's the guaranty claim that I
18 just mentioned.

19 And I would defer to my
20 counsel if I'm missing something, but
21 from my understanding that is what
22 we're doing.

23 Q. Okay. Well, Mr. Winston, those
24 are all of my questions at this time.

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1 I appreciate your time.

2 MR. BRACEGIRDLE: Before I
3 hand over the witness, I just want for
4 the record just state a reservation of
5 rights.

6 We received the production
7 of documents last night shortly before
8 midnight. We've done our best to try
9 to review those before the beginning of
10 today's deposition.

11 I just want to on the record
12 reserve our right to re-call the
13 witness if there's any documents that
14 we find in the production that we think
15 merit additional examination.

16 With that, I will pass the
17 witness.

18 MR. HAIMS: Could we go off
19 the record for two minutes?

20 MR. BRACEGIRDLE: Yes.

21 (A brief recess was taken.)

22 MR. HAIMS: We don't have
23 any questions for Mr. Winston at this
24 time, but I would note that this

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1 deposition took place on an agreed-upon
2 schedule and we would object to any
3 further attempts to depose him outside
4 of the agreed-upon schedule.

5 But with that, I don't have
6 anything further at the moment.

7 MR. BRACEGIRDLE: Okay.

8 THE COURT REPORTER: Counsel,
9 would you like to order an expedited
10 transcript or rough drafts? How would
11 you like the transcript delivered?

12 MR. HAIMS: Both.

13 MR. BRACEGIRDLE: All of the
14 above both, Kurt.

15 THE COURT REPORTER: So
16 expedited final and rough drafts?

17 MR. HAIMS: Yes, please.

18 MR. BRACEGIRDLE: Yes. I
19 would like a rough tonight and then
20 expedited.

21 Thank you.

22 (Deposition concluded at
23 11:50 a.m.)

24 - - - - -

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DEPONENT: MICHAEL E. WINSTON PAGE

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E X H I B I T S

WINSTON DEPOSITION EXHIBITS MARKED

Exhibit 1 Declaration of Richard

L. O'Toole 3

DIRECTIONS NOT TO ANSWER PAGE LINE

NONE

REQUESTS MADE FOR DOCUMENTS PAGE LINE

NONE

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ERRATA SHEET PAGE 73

CERTIFICATE OF REPORTER PAGE 74

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1 READING AND SIGNING INSTRUCTIONS

2 After reading the transcript of your
3 deposition, please note any change or
4 correction and the reason therefor on
5 the errata sheet that appears on the
6 following page. DO NOT MAKE ANY MARKS
7 OR NOTATIONS ON THE TRANSCRIPT ITSELF.
8 Please sign and date the errata sheet
9 and return it to our office at the
10 address indicated below. Our office
11 will distribute copies of the executed
12 errata sheet to all counsel. If
13 necessary, you can make additional
14 copies of the errata sheet.

15 Rule 30(e) governing this procedure
16 provides the deposition may be filed as
17 transcribed if you do not return a
18 signed errata sheet within 30 days.

19 RETURN ORIGINAL ERRATA SHEET TO:

20 LEXITAS REPORTING

21 1330 King Street, Wilmington, DE 19801
22 depos@wilfet.com - 302-655-0477
23
24

DEPONENT: MICHAEL E. WINSTON
DATE: Thursday, May 20, 2021
CASE: GVS Portfolio I B, LLC

ERRATA SHEET

PAGE/LINE/CHANGE OR CORRECTION AND REASON

A handwriting practice sheet featuring 20 rows of horizontal lines. Each row is composed of three lines: a solid top line, a dashed middle line, and a solid bottom line. The first two rows of the sheet include a diagonal slash '/' on the left side of the dashed middle line, likely to guide the starting point for a stroke. The remaining 18 rows consist of the same three-line pattern without the initial slash.

I have read the foregoing transcript of my deposition and, except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made by me.

Date:

Signature of Deponent

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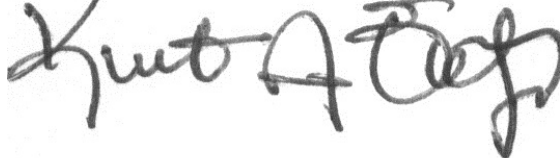
1 State of Delaware)
2)
3 New Castle County)
4

5 CERTIFICATE OF REPORTER

6 I, Kurt A. Fetzer, Registered
7 Diplomate Reporter and Notary Public,
8 do hereby certify that there came
9 before me on Thursday, May 20, 2021,
10 the deponent herein, MICHAEL E.
11 WINSTON, who was duly sworn by me and
12 thereafter examined by counsel for the
13 respective parties; that the questions
14 asked of said deponent and the answers
15 given were taken down by me in
16 Stenotype notes and thereafter
17 transcribed by use of computer-aided
18 transcription and computer printer
19 under my direction.
20

21 I further certify that the foregoing
22 is a true and correct transcript of the
23 testimony given at said examination of
24 said witness.

25 I further certify that I am not
26 counsel, attorney, or relative of
27 either party, or otherwise interested
28 in the event of this suit.

29 

30 Kurt A. Fetzer, RDR, CRR

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EXHIBIT E

Greg Flasser

From: Marlier, Haimavathi V. <HMarlier@mofo.com>
Sent: Friday, May 21, 2021 6:44 PM
To: Thad Bracegirdle; Haims, Joel C.; Foudy, Theresa A.; Minuti, Mark; DiSabatino, Monique Bair
Cc: Neil Glassman; Erin Fay; Daniel N. Brogan; Greg Flasser
Subject: RE: RREF Discovery Deficiencies

CAUTION EXTERNAL

Hi Thad, we object to the production of the three categories of documents that you have bullet-pointed below. As articulated in RREF's responses and objections to GVS's discovery requests, these documents are completely irrelevant to whether Debtor filed its bankruptcy petition in good faith and are, therefore, outside the scope of the May 26 hearing. (GVS, which bears the burden of proving a good faith basis for its bankruptcy filing, produced only 69 documents.) We also object to any further attempts to depose Mr. Winston. You had the documents you refer to below, in an electronic, text-searchable form, in advance of the deposition and had ample opportunity to ask Mr. Winston questions, yet ended the deposition - which started at 10:05 a.m. - at 11:50 a.m. If you identify the documents you wish to ask Mr. Winston about, we will consider your request, reserving all rights.

Regards,

Haima

HAIMAVATHI V. MARLIER

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From: Thad Bracegirdle <tbracegirdle@bayardlaw.com>
Sent: Friday, May 21, 2021 5:23 PM
To: Haims, Joel C. <JHaims@mofo.com>; Marlier, Haimavathi V. <HMarlier@mofo.com>; Foudy, Theresa A. <TFoudy@mofo.com>; Minuti, Mark <Mark.Minuti@saul.com>; DiSabatino, Monique Bair <Monique.DiSabatino@saul.com>
Cc: Neil Glassman <NGlassman@bayardlaw.com>; Erin Fay <EFay@bayardlaw.com>; Daniel N. Brogan <DBrogan@bayardlaw.com>; Greg Flasser <GFlasser@bayardlaw.com>
Subject: RREF Discovery Deficiencies
Importance: High

External Email

Dear Counsel – I'm writing to address the following issues concerning RREF's document production:

- E-mails between TIAA and Related counsel produced in discovery (RREF 665, RREF 668) reflect that TIAA obtained updated appraisals in early March 2021 which were provided to Related. We are unaware of these appraisals having been produced, even though they are responsive to Debtor's Request for Production No. 2. Please produce these documents as soon as practicable.
- During yesterday's deposition, Mr. Winston testified that Related performed its own internal valuation of the storage facility properties in connection with underwriting and evaluating the purchase of Debtor's loan from TIAA (see pp. 33:4-34:2). None of these appraisals, or communications relating to them, were produced, even though they are responsive to Debtor's Request for Production No. 2. Please produce these documents as soon as practicable.
- Debtor's Request for Production No. 12 sought documents or communications concerning the UCC foreclosure sale scheduled for April 12, 2021. All of the participation statements produced by RREF are directed to TIAA, indicating that they concerned the earlier UCC foreclosure sales scheduled for September 2020 and/or March 2021. No participation statements concerning the April 12, 2021 UCC foreclosure sale were produced – please confirm that RREF has no such participation statements in its possession, custody or control, or produce them as soon as practicable.

Finally, as I noted yesterday on the record Debtor reserved its right to recall Mr. Winston for deposition based on RREF's production of responsive documents only 10 hours before Mr. Winston's deposition was scheduled to begin. We do require additional testimony from Mr. Winston to address certain documents already produced by RREF as well as the documents to be produced in response to my foregoing requests. Accordingly, please confirm times when Mr. Winston will be available for a short supplemental deposition on Sunday, Monday or Tuesday (May 23-25) and I am confident that we can find a date and time that will work for the witness and all counsel.

Thank you,

Thad J. Bracegirdle

Director | tbracegirdle@bayardlaw.com

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EXHIBIT F

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	X	
	:	Chapter 11
GVS Portfolio I B, LLC,	:	Case No. 21-10690 (CSS)
Debtor. ¹	:	Related to Docket No. 8
	:	
	:	
	X	

**RREF III STORAGE LLC’S RESPONSES AND OBJECTIONS
TO DEBTOR’S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS DIRECTED TO RREF III STORAGE LLC IN
CONNECTION WITH ITS MOTION FOR ENTRY OF AN ORDER
DISMISSING THE DEBTOR’S CHAPTER 11 CASE WITH PREJUDICE**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure (the “Federal Rules”), made applicable to this contested matter by Rules 7026, 7034, and 9014(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), RREF Storage III LLC (“RREF”), by and through its undersigned counsel, hereby responds and objects (the “Responses and Objections”) to those requests for the production of documents (the “Requests”) set forth in *Debtor’s First Set of Discovery Requests Directed to RREF III Storage LLC in Connection with its Motion for Entry of an Order Dismissing the Debtor’s Chapter 11 Case with Prejudice and Granting Relief from the Automatic Stay*, dated May 7, 2021, that the Debtor has identified as documents that it is continuing to request in connection with RREF’s *Motion for Entry of an Order Dismissing the Debtor’s Chapter 11 Case with Prejudice* (the “Motion to Dismiss”).²

¹ The Debtor in this chapter 11 case, together with the last four digits of the Debtor’s taxpayer identification number, is as follows: GVS Portfolio I B, LLC (7171). The Debtor’s mailing address is 814 Lavaca Street, Austin, TX 78701.

² These Responses and Objections pertain to Requests 1, 2, 9, 11, 12, 19 (limited to communications between RREF and SROA), 20, 21, and 22, as identified by Debtor’s counsel on May 14, 2021.

GENERAL OBJECTIONS

1. The Responses and Objections set forth in this section apply to each of the Requests and are not necessarily repeated in response to each individual Request. The assertion of the same, similar, or additional objections in RREF's specific objections to an individual Request, or the failure to assert any additional objection to a Request, does not waive any of RREF's objections set forth in this section or the following sections.

2. These Responses and Objections are made without waiving or intending to waive:

- (a) all objections to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose in this or any subsequent matter or proceeding, including in any other case or action;
- (b) the right to object to the use of any documents (or the subject matter thereof) that may be produced in any matter or proceeding in this or any other case or action on any grounds;
- (c) the right to preserve, prior to production, and as a condition of production, the confidentiality or the proprietary nature of any documents that may be produced or the subject matter thereof;
- (d) the right to object on any ground at any time to a demand for further production or other discovery involving or relating to the subject matter of the Requests; and
- (e) the right at any time to revise, supplement, clarify or amend these Responses and Objections, if further factual developments or analysis warrants a modification or if additional documents are located that are called for by the Requests.

3. RREF objects generally to the "Instructions" set forth in the Requests to the extent that they purport to impose requirements, obligations or duties that exceed those imposed by the Federal Rules, the Bankruptcy Rules, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, or any applicable order of the Court.

4. RREF objects generally to the Requests to the extent that they seek information or documents protected from discovery by the attorney-client privilege, the attorney work product doctrine, the common-interest privilege, or any other applicable privilege or doctrine.

5. Nothing contained in these Responses and Objections is intended as, or shall in any way be deemed as, a waiver of any attorney-client privilege, any work product doctrine, or any other applicable privilege or doctrine. Inadvertent production of any such protected document shall not constitute a waiver of any privilege or any other ground for objection to discovery with respect to such document or any other document, or with respect to the subject matter thereof, or with respect to the information contained therein, nor shall such inadvertent production waive RREF's right to object to the use of any such document or the information contained therein during any subsequent matter or proceeding. Upon notification that such disclosure was inadvertent, the information or document(s) and any copies thereof shall be returned immediately.

6. RREF objects generally to the Requests to the extent that they are vague, ambiguous, overly broad or unduly burdensome, not proportional to the needs of this case, and/or to the extent that they request information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

7. RREF objects generally to the Requests to the extent they seek public documents that are equally available to the Debtor through less burdensome means, including, without limitation, court records, county clerk records, securities and corporate filings, and press releases.

8. RREF objects generally to the Requests to the extent they seek private, confidential, proprietary documents and information and/or trade secrets of RREF.

9. RREF objects generally to the Requests to the extent that they seek to impose an obligation on it to search for documents beyond where such documents would be kept in the ordinary course of business. RREF's responses are limited to documents from sources reasonably likely to have responsive documents and are consistent with RREF's standard record retention policies.

10. RREF objects generally to the Requests to the extent that they call for the production of any document that is not within RREF's possession, custody, and/or control on the ground that it would be unduly burdensome to require such production.

11. RREF objects generally to the Requests to the extent that they seek documents or information that is (a) in the possession, custody or control of the Debtor, or (b) obtainable from some other source that is more convenient, less burdensome, or less expensive.

12. RREF objects generally to the Requests to the extent that they are overly broad, including requests for the production of "all" documents when all relevant facts can be obtained from fewer than "all" documents or when "all" documents would call for the production of duplicates of the same documents already produced or withheld on the grounds of privilege or other objections raised herein.

13. RREF objects generally to the Requests, because the Motion to Dismiss concerns the Debtor's basis for filing its petition as of April 12, 2021. Documents or information in the possession of RREF that were not in the Debtor's possession on April 12, 2021 are irrelevant.

14. RREF objects generally to all the Requests to the extent they seek discovery of documents reflective of RREF's judgments, evaluations, or assessments of value, because such Requests seek confidential and proprietary information that is irrelevant to the Motion to Dismiss, and, as such, are overbroad, unduly burdensome, and disproportionate to the discovery

that is needed to resolve the Motion to Dismiss. RREF will not produce such documents or information.

15. Given the compressed schedule for the production of documents, it was incumbent upon the Debtor to narrowly tailor its discovery requests. The Debtor's Requests, however, are not proportional to what is appropriate in the current contested matter.

16. RREF objects to searching for or producing any text messages, voice-mails, or any similar messages, each of which is not readily accessible and/or would be unduly burdensome and not proportionate to the needs of the contested matter and the abbreviated timeframe for discovery.

17. The Responses and Objections provided herein have been prepared pursuant to a reasonable and diligent investigation and search for the documents requested. RREF reserves the right to revise, correct, add to, supplement, clarify and/or modify its Responses and Objections should any additional information become available through discovery or otherwise.

18. These General Objections are specifically incorporated by reference as though fully set forth in each response to the Requests given below.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. RREF objects to Definition No. 6, and all Definitions whose terms are defined to include any entity and its affiliates, parents, subsidiaries, officers, managers, agents, representatives, employees, attorneys, assigns, predecessors in interest or any other person acting or purporting to act on the entity's behalf. This definition renders the Requests in which the term is used vague and ambiguous, overly broad, unduly burdensome, and oppressive, and seek the production of documents neither relevant to the subject matter of the current proceeding nor reasonably calculated to lead to the discovery of admissible evidence in any proceeding.

2. RREF objects to Instruction No. 13 to the extent it is overbroad, unduly burdensome, and/or seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, Instruction No. 13 seeks production of documents and information during the period from and including December 1, 2019 to the present date, a time period that predates RREF's March 8, 2020 acquisition of those loans extended to the Debtor pursuant to (i) the Mezz 2 Loan Agreement, dated as of November 30, 2018, and (ii) the Omnibus Amendment to Mezzanine 2 Loan documents, dated as of January 7, 2019 (collectively, the "Mezz 2 Loan"), and is thus far broader than when relevant communications with RREF took place.

3. In searching for any documents, RREF is utilizing electronic tools that it believes are reasonable and proportionally appropriate, including email threading and de-duplication. Furthermore, RREF is collecting documents and communications in response to the Requests in a manner that it considers reasonable and proportionally appropriate. None of these electronic tools or methods of collection assures the collection, review and production of "all documents" as requested by the Debtor; however, they represent RREF's good faith effort to comply, subject to the Responses and Objections contained herein. If RREF states in these Responses and Objections that responsive documents, if any, will be produced, that does not constitute an admission that responsive documents do exist. RREF's responses to any particular Requests, including its agreement to produce documents, do not constitute admissions that such documents are evidence of any particular allegation or issue.

SPECIFIC RESPONSES AND OBJECTIONS

Subject to and without waiving RREF's General Objections and Objections to Definitions and Instructions, RREF responds as follows:

REQUEST NO. 1:

To the extent not attached to the O'Toole Declaration as Exhibits 1-25, all documents referenced in the O'Toole Declaration and/or supporting any statements in the O'Toole Declaration.

RESPONSE TO REQUEST NO. 1:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege or any other applicable privilege or doctrine. RREF further objects to this Request to the extent that it calls for the production of any filings in *GVS v. TIAA*, which are publicly available. Moreover, RREF objects to this Request on relevance grounds to the extent that it seeks documents and information that are not relevant to the Motion to Dismiss. RREF also objects that the request for “all” documents “supporting any statement” in the O'Toole Declaration is vague, overly broad, unduly burdensome, and seeks the production of documents and information that are not relevant or material to, or reasonably calculated to lead to, the discovery of admissible evidence, and not proportional to what is appropriate for the current matter. RREF further objects to this Request on the grounds that it is unreasonably cumulative or duplicative and seeks documents that are in the possession, custody, or control of the Debtor.

Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce non-privileged documents, if any, that are referenced in the O'Toole Declaration but not attached as an exhibit thereto.

REQUEST NO. 2:

All documents and communications concerning the circumstances or transaction(s) by which, as stated in Paragraph 7 of the O'Toole Declaration, "RREF purchased the Mezz 2 Loan or [sic] March 8, 2021, and TIAA assigned RREF all of the rights flowing from the Mezz 2 Loan Documents."

RESPONSE TO REQUEST NO. 2:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF objects to this Request to the extent it is duplicative or cumulative of Request No. 1. RREF further objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege or any other applicable privilege or doctrine. Moreover, RREF objects to this Request on relevance grounds, because it seeks documents and information that are not relevant to the Motion to Dismiss. RREF also objects that the request for "all" documents "concerning the circumstances or transaction(s)" is vague, overly broad, unduly burdensome, and seeks the production of documents and information that are not relevant or material to, or reasonably calculated to lead to, the discovery of admissible evidence, and not proportional to what is appropriate for the current matter. RREF further objects to the extent this Request seeks documents and/or information that constitute, in whole or in part, trade secrets or protected, private, confidential, proprietary, or competitively sensitive information.

Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce non-privileged documents, if any, responsive to Request No. 2, except to the extent such documents reflect RREF's judgments, evaluations, or assessments of value.

REQUEST NO. 9:

All documents or communications concerning the UCC foreclosure sale scheduled for September 3, 2020, as referenced in Paragraph 35 of the O'Toole Declaration, including but not limited to any registration documents concerning the UCC foreclosure sale and documents or communications identifying potential or actual bidders participating in the UCC foreclosure sale.

RESPONSE TO REQUEST NO. 9:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF objects to this Request to the extent it is duplicative or cumulative of Request No. 1. RREF further objects to this Request to the extent it calls for the production of documents that are not within RREF's possession, custody, and/or control because they precede RREF's purchase and assumption of the Mezz 2 Loan. Moreover, RREF objects to this Request on relevance grounds, because it seeks documents and information that are not relevant to the Motion to Dismiss. RREF also objects that the request for "all" documents "concerning" a UCC foreclosure sale that did not take place is vague, overly broad, unduly burdensome, and seeks the production of documents and information that are not relevant or material to, or reasonably calculated to lead to, the discovery of admissible evidence, and not proportional to what is appropriate for the current matter. RREF further objects to the extent this Request seeks documents and/or information that constitute, in whole or in part, trade secrets or protected, private, confidential, proprietary, or competitively sensitive information.

Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce non-privileged documents, if any, responsive to Request No. 9, except to the extent such documents reflect RREF's judgments, evaluations, or assessments of value.

REQUEST NO. 11:

All documents or communications concerning the UCC foreclosure sale rescheduled for March 10, 2021, as referenced in Paragraph 36 of the O'Toole Declaration, including but not limited to any registration documents concerning the UCC foreclosure sale and documents or communications identifying potential or actual bidders participating in the UCC foreclosure sale.

RESPONSE TO REQUEST NO. 11:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF objects to this Request to the extent it is duplicative or cumulative of Request No. 1. RREF further objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege, or any other applicable privilege or doctrine. Moreover, RREF objects to this Request on relevance grounds, because it seeks documents and information that are not relevant to the Motion to Dismiss. RREF also objects that the request for “all” documents “concerning” a UCC foreclosure sale that did not take place is vague, overly broad, unduly burdensome, and seeks the production of documents and information that are not relevant or material to, or reasonably calculated to lead to, the discovery of admissible evidence, and not proportional to what is appropriate for the current matter. RREF further objects to the extent this Request seeks documents and/or information that constitute, in whole or in part, trade secrets or protected, private, confidential, proprietary, or competitively sensitive information.

Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce non-privileged documents, if any, responsive to Request No. 11, except to the extent such documents reflect RREF's judgments, evaluations, or assessments of value.

REQUEST NO. 12:

All documents or communications concerning the UCC foreclosure sale scheduled for April 12, 2021, as referenced in Paragraph 38 of the O'Toole Declaration, including but not limited to any registration documents concerning the UCC foreclosure sale and documents or communications identifying potential or actual bidders participating in the UCC foreclosure sale.

RESPONSE TO REQUEST NO. 12:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF objects to this Request to the extent it is duplicative or cumulative of Request No. 1. RREF further objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege, or any other applicable privilege or doctrine. Moreover, RREF objects to this Request on relevance grounds, because it seeks documents and information that are not relevant to the Motion to Dismiss. RREF also objects that the request for “all” documents “concerning” a UCC foreclosure sale that did not take place is vague, overly broad, unduly burdensome, and seeks the production of documents and information that are not relevant or material to, or reasonably calculated to lead to, the discovery of admissible evidence, and not proportional to what is appropriate for the current matter. RREF further objects to the extent this Request seeks documents and/or information that constitute, in whole or in part, trade secrets or protected, private, confidential, proprietary, or competitively sensitive information.

Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce non-privileged documents, if any, responsive to Request No. 12, except to the extent such documents reflect RREF's judgments, evaluations, or assessments of value.

REQUEST NO. 19:

All communications between or among RREF, TIAA, SROA and/or JLL concerning: (a) Debtor; (b) the Properties (as defined in Paragraph 11 of the O'Toole Declaration); (c) the Mezz 2 Loan (as defined in Paragraph 6 of the O'Toole Declaration); and/or (d) any proposed or actual efforts to foreclose upon, sell or otherwise transfer Debtor's assets (including but not limited to the UCC foreclosure sales referenced in the O'Toole Declaration).

RESPONSE TO REQUEST NO. 19:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF objects to this Request to the extent it is duplicative or cumulative of Request No. 1. RREF further objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege, or any other applicable privilege or doctrine. Moreover, RREF objects to this Request on relevance grounds, because it seeks documents and information that are not relevant to the Motion to Dismiss. RREF also objects that the request for "all" communications "concerning" the Debtor, the Properties, the Mezz 2 Loan, or any proposed or actual efforts to foreclose upon, sell, or otherwise transfer the Debtor's "assets" is vague, overly broad, unduly burdensome, and seeks the production of documents and information that are not relevant or material to, or reasonably calculated to lead to, the discovery of admissible evidence, and not proportional to what is appropriate for the current matter. RREF also objects that the Request is confusing to the extent it represents that Debtor has more than one asset. RREF further objects to the extent this Request seeks documents and/or information that constitute, in whole or in part, trade secrets or protected, private, confidential, proprietary, or competitively sensitive information.

Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce non-privileged communications with SROA, if any, responsive to Request No. 19, except to the extent such documents reflect RREF's judgments, evaluations, or assessments of value.

REQUEST NO. 20:

To the extent not responsive to other requests, all documents upon which RREF intends to rely in support of the Motion and/or which RREF intends to offer as evidence at any hearing on the Motion.

RESPONSE TO REQUEST NO. 20:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF further objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege, or any other applicable privilege or doctrine. RREF also objects to this Request on the grounds that RREF has no obligation to introduce any evidence or rely upon any documents at the hearing on the Motion to Dismiss. RREF further objects because this Request is premature in that it calls for the disclosure of exhibits in advance of the dates agreed to between RREF and the Debtor.

REQUEST NO. 21:

To the extent not responsive to other requests, all documents provided to and/or relied upon by any person Movant intends to offer as an expert witness at any hearing on the Motion.

RESPONSE TO REQUEST NO. 21:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. RREF further objects to this Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, attorney work product doctrine, the common-interest privilege, or any other applicable privilege or doctrine. RREF also objects to this Request on the grounds that RREF has no obligation to call any witnesses (including expert witnesses), introduce any evidence or rely upon any documents at the hearing on the Motion to Dismiss. Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce responsive, non-privileged documents, if any.

REQUEST NO. 22:

To the extent not responsive to other requests, all documents identified in response to the foregoing interrogatories.

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RESPONSE TO REQUEST NO. 22:

RREF incorporates by reference the General Objections and Objections to Definitions and Instructions stated above as if fully set forth herein. Subject to and without waiving the foregoing General and Specific Objections, following execution of an appropriate confidentiality agreement, RREF will produce responsive, non-privileged documents, if any.

Dated: May 17, 2021

SAUL EWING ARNSTEIN & LEHR LLP

/s/ Monique B. DiSabatino

Mark Minuti (DE Bar No. 2659)

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Attorneys for RREF III Storage LLC

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	X	
	:	Chapter 11
GVS Portfolio I B, LLC,	:	
	:	Case No. 21-10690 (CSS)
Debtor. ¹	:	
	:	
	:	
	X	

**NOTICE OF SERVICE OF RREF III STORAGE LLC'S RESPONSES
AND OBJECTIONS TO DEBTOR'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS DIRECTED TO RREF III STORAGE
LLC IN CONNECTION WITH ITS MOTION FOR ENTRY OF AN ORDER
DISMISSING THE DEBTOR'S CHAPTER 11 CASE WITH PREJUDICE**

I, Monique B. DiSabatino, hereby certify that on May 17, 2021, I caused a copy of **RREF III Storage LLC's Responses and Objections to Debtor's First Set of Requests for Production of Documents Directed to RREF III Storage LLC in Connection with Its Motion for Entry of an Order Dismissing the Debtor's Chapter 11 Case with Prejudice** to be served via Electronic Mail on the following parties.

Neil B. Glassman, Esq.
Thad J. Bracegirdle, Esq.
Erin R. Fay, Esq.
Gregory J. Flasser, Esq.
The Bayard Firm
600 N. King Street, Suite 400
Wilmington, DE 19801

¹ The Debtor in this chapter 11 case, together with the last four digits of the Debtor's taxpayer identification number, is as follows: GVS Portfolio I B, LLC (7171). The Debtor's mailing address is 814 Lavaca Street, Austin, TX 78701.

Dated: May 17, 2021

SAUL EWING ARNSTEIN & LEHR LLP

/s/ Monique B. DiSabatino

Mark Minuti (DE Bar No. 2659)

Monique Bair DiSabatino (DE Bar No. 6027)

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